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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	94002525
Party	User Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa
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Submission	Plaintiff's Notice of Reliance
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Pending Application Serial No. 77/779,339  
Application Filing Date: July 13, 2009  
Publication Date: June 22, 2010

Boi Na Braza, LLC,

Applicant.

vs.

Terra Sul Corporation a/k/a  
Churrascaria Boi Na Brasa,

Excepted User,

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Concurrent Use No. 94002525

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**TERRA SUL CORPORATION'S NOTICE OF RELIANCE**

Pursuant to 37 C.F.R. § 2.120(j), 37 C.F.R. § 2.122 (e) and Trademark Trial and Appeal Board Manual of Procedure ("TBMP") §§ 704.02, 704.07, 704.08 and 704.10, Excepted User Terra Sul Corporation ("Terra Sul") hereby submits and gives notice to the Board and to Applicant Boi Na Braza, Inc. ("Boi Na Braza") of Terra Sul's intention to rely upon the following evidence. True and correct copies of the following are attached hereto and incorporated by reference:

**Discovery Responses of Applicant**

1. Boi Na Braza's Objections and Answers to Excepted User Terra Sul's First Set of Interrogatories (Nos. 1-50), attached hereto as Exhibit A.
2. Boi Na Braza's Objections and Responses to Excepted User Terra Sul's First Set of Requests for Admissions (Nos. 1-23), attached hereto as Exhibit B.

### **Official Records**

1. Portions of the public record kept by the United States Patent and Trademark Office Trademark Trial and Appeal Board for Cancellation Proceeding No. 92047056, attached hereto as Exhibits C – G. Exhibits C-G were downloaded from TTABVUE on October 17 and 18, 2012. This record is relevant insofar as the parties in Cancellation Proceeding No. 92047056 are the same parties herein, and the present concurrent use proceeding involves the concurrent use applicant's registration for a geographically restricted registration of the same mark that was canceled in the prior Cancellation Proceeding No. 92047056. A separate motion to introduce testimony from Cancellation Proceeding No. 92047056 is being submitted under 37 C.F.R. § 2.122(f) with respect to the testimony and discovery depositions and exhibits contained in Exhibits D and E respectively.

Exhibit C comprises a docket sheet for the entire record of the cancellation proceeding.

Exhibit D comprises docket entry 24, Applicant's notice of reliance and a discovery deposition of Mr. Farid Saleh and exhibits which were introduced by way of notice of reliance by the Applicant Boi Na Braza in the prior cancellation proceeding.

Exhibit E is a copy of docket entries 28 and 30, Terra Sul's Trial Brief on the Merits dated February 27, 2009. It is noted that Exhibit G includes a full copy of the testimony deposition of Mr. Farid Saleh dated August 8, 2008, with exhibits thereto. This testimony deposition also appears at docket entry 16. Terra Sul intends to rely upon this testimony deposition by way of notice of reliance. However, since the testimony deposition at docket entry 16 is duplicative of the exhibit attached to Terra Sul's trial brief, a separate copy is not included as an exhibit hereto.

Exhibit F is a copy of docket entry 35, Terra Sul's Rebuttal Brief dated April 30, 2009.

Exhibit G is a copy of docket entry 37, the Board's decision cancelling the registration of Boi Na Braza.

2. Exhibit H is a copy of application status and documents from U.S. Trademark Application No. 77/813,416 for the mark CHURRASCARIA BOI NA BRASA obtained from the Trademark Status and Document Retrieval database of the U.S. Patent and Trademark Office.
3. Exhibit I is a copy of application status and documents from US. Trademark Application No. 77/813,335 for the mark BOI NA BRASA obtained from the Trademark Status and Document Retrieval database of the U.S. Patent and Trademark Office.
4. Exhibit J is a copy of application status and documents from U.S. Trademark Application No. 76/088,982 for the mark BOI NA BRAZA & Design (U.S. Trademark Registration No. 2,666,968) obtained from the Trademark Status and Document Retrieval database of the U.S. Patent and Trademark Office.
5. Exhibit K is a copy of application status and documents from U.S. Trademark Application No. 75/748,967 for the mark BOI NA BRAZA (U.S. Trademark Registration No. 2,534,608) obtained from the Trademark Status and Document Retrieval database of the U.S. Patent and Trademark Office.

#### **Printed Publications**

The following printed publications attached hereto as Exhibits L – Q are properly submitted by notice of reliance under 37 C.F.R. §2.122(e) and TBMP § 704.08. These documents are relevant to show the print advertising and relevant customer/consumer markets for Excepted User Terra Sul's restaurant Churrascaria Boi Na Brasa and dates of use of the mark BOI NA BRASA.

Exhibit L - The Star Ledger – Friday September 6, 2002, selected pages.

Exhibit M – Luso-Americano – January 3, 2003, p. 15-16 and 35-38; April 27, 2007 p. 18.

Exhibit N – Brazilian Times – July 2, 2010, p. 1, 4 and 6.

Exhibit O – Brazilian Voice – May 22-25, 2010, p. 14; May 29, 2010 – June 1, 2010, p. 1 and p. 3.

Exhibit P – Brazilian Press – May 17, 2008, p. 1, 3 and 17; June 13, 2007, p. 1, 8-10 and 47-50; January 2007, p. 1-24; August 24, 2005, p. 1-56; May 28, 2005, p. 1-24; September 8, 2003, p. 1-16; February 22, 2003, p. 1 and 54; January 6, 2003, pages 7-10; December 28, 2002, pages 1-2 and 13; December 14, 2002, pages 1-2; September 26, 2001, p. 16; December 6, 2000, page 62; November 17, 1999, p. 1 and 23; September 17, 1997, p. 1 and 12.

Exhibit Q – Brazilian Press – October 18, 2012 p. 1, 4 and 10; September 27, 2012 p. 1, 4, 10, 26-29 and 38-39.

Date: October 18, 2012

Respectfully submitted,

/s/ Eamon J. Wall

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TERRA SUL CORPORATION a/k/a  
CHURRASCARIA BOI NA BRASA

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of “**TERRA SUL CORPORATION’S NOTICE OF RELIANCE**” was served on the parties listed below, via ☐ hand delivery, ☒ first class mail, ☐ facsimile, and/or ☒ electronic mail on this 18th day of October, 2012.

Herbert J. Hammond  
Justin S. Cohen  
THOMPSON & KNIGHT L.L.P.  
1722 Routh Street  
Suite 1500  
Dallas, Texas 75201

Dated: October 18, 2012

/s/ Eamon J. Wall

\_\_\_\_\_  
Eamon J. Wall

# EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Pending Application Serial No. 77/779,339  
Application Filing Date: July 13, 2009  
Publication Date: June 22, 2010

Boi Na Braza, LLC,	§	
	§	
Applicant.	§	
	§	
vs.	§	Concurrent Use No. 94002525
	§	
Terra Sul Corporation a/k/a	§	
Churrascaria Boi Na Brasa,	§	
	§	
Excepted User,	§	

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**OBJECTIONS & RESPONSES TO TERRA SUL CORPORATION'S  
FIRST SET OF INTERROGATORIES (Nos. 1-50)**

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To: Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa, by and through its attorney of record, Eamon J. Wall, Wall & Tong, LLP, 25 James Way, Eatontown, New Jersey 07724.

Pursuant to Federal Rule of Civil Procedure 33 and the Trademark Trial and Appeal Board Manual of Procedure ("TBMP") Section 405.04, Applicant Boi Na Braza, LLC ("Boi Na Braza" or "Applicant"), hereby submits these Objections and Responses to Excepted User Terra Sul Corporation's ("Terra Sul") First Set of Interrogatories.



### **General Objections**

1. Boi Na Braza objects to Terra Sul's interrogatories as being overly broad and unduly burdensome. Many of the interrogatories ask about issues, claims, and defenses that have no bearing whatsoever on the present proceeding. The only issue in this proceeding is the geographic scope of Terra Sul's prior use of its CHURRASCARIA BOI NA BRASA mark. Despite this relatively simple and straightforward issue, Terra Sul inquires into numerous irrelevant issues.

2. Terra Sul opposed registration of the mark BOI NA BRAZA on several grounds, including under Section 2(e) of the Lanham Act. On December 13, 2011, the Board dismissed Terra Sul's Section 2(e) grounds from this proceeding. Therefore, Boi Na Braza objects to each of Terra Sul's requests that relate to their Section 2(e) grounds on the basis that such requests are irrelevant and not likely to lead to admissible evidence.

3. Boi Na Braza also objects to each of Terra Sul's requests that inquires into defenses that Boi Na Braza did not assert.

4. In addition, the Board's June 12, 2009 decision in Cancellation No. 92047056 decided many factual issues between the parties. While Boi Na Braza disagrees with several of the Board's decisions, Boi Na Braza accepts the Board's decisions for the purposes of this proceeding.

5. Boi Na Braza objects to the Definitions and Instructions and the Interrogatories to the extent that they purport to impose burdens and obligations on Boi Na Braza greater than those imposed by the Federal Rules of Civil Procedure or the TBMP.

6. Boi Na Braza objects to each of Terra Sul's Interrogatories to the extent that they seek information protected by the attorney-client privilege and/or work product doctrine, or any other applicable privilege or protection from discovery.

7. Boi Na Braza further objects to the Interrogatories to the extent that they seek confidential business information. Boi Na Braza will produce confidential information subject to the Trademark Trial and Appeal Board's Standard Protective Order.

8. All responses and objections contained herein are based only upon information and documents which are presently available to and specifically known to Boi Na Braza after conducting a reasonable and diligent investigation.

9. Each and all of these General Objections are hereinafter incorporated by reference in response to the Interrogatories below.

### **OBJECTIONS & ANSWERS TO INTERROGATORIES**

#### **INTERROGATORY NO. 1:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza that support Paragraph 4 of Your Answer, including but not limited to your denial that the term "boi na braza" is not properly translated as "Ox in embers."

#### **ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant because the Section 2(e) grounds have been dismissed. Boi Na Braza also objects to this interrogatory as vague and ambiguous because there is no reference to "ox in embers" in the Notice of Opposition or Boi Na Braza's response in paragraph 4 of its Answer, and therefore Applicant cannot answer this question.

#### **INTERROGATORY NO. 2:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza that support Paragraph

4 of Your Answer, including but not limited to your denial that the term "brazza" is a slang term for things Brazilian.

**ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant because the Section 2(e) grounds have been dismissed. Boi Na Braza also objects to this interrogatory as vague and ambiguous because there is no reference to "brazza" in the Notice of Opposition or Boi Na Braza's response in paragraph 4 of its Answer, and therefore Applicant cannot answer this question.

**INTERROGATORY NO. 3:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza that support Paragraph 4 of Your Answer, including but not limited to your denial that the term "boi na brazza" may possibly be translated as "Ox in Brazil" or perhaps "Brazilian Ox."

**ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant because the Section 2(e) grounds have been dismissed. Boi Na Braza also objects to this interrogatory as vague and ambiguous because there is no reference to "ox in Brazil" in the Notice of Opposition or Boi Na Braza's response in paragraph 4 of its Answer, and therefore Applicant cannot answer this question.

**INTERROGATORY NO. 4:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza that support Paragraph 4 of Your Answer, including but not limited to your denial that "the Brazilian connotations of the term Braza evidence a geographic commercial impression to the relevant consumer."

**ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant because the Section 2(e) grounds have been dismissed. Boi Na Braza also objects to this interrogatory as vague and ambiguous because there is no reference to "the Brazilian connotations of the term Braza evidence a geographic commercial impression to the relevant consumer" in the Notice of Opposition or Boi Na Braza's response in paragraph 4 of its Answer, and therefore Applicant cannot answer this question.

**INTERROGATORY NO. 5:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza that support Paragraph

6 of Your Answer, including but not limited to your denial that the term "BOI NA BRAZA, when properly translated from Portuguese to English and used in connection with the services set forth in the registration, is merely descriptive or deceptively misdescriptive of them within the meaning of Section 2(e) of the Trademark Act..."

**ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant because the Section 2(e) grounds have been dismissed. Boi Na Braza also objects to this interrogatory as vague and ambiguous because there is no reference to the translation of "BOI NA BRAZA" and no statement about the mark being merely descriptive or deceptively misdescriptive in the Notice of Opposition or Boi Na Braza's response in paragraph 6 of its Answer, and therefore Applicant cannot answer this question.

**INTERROGATORY NO. 6:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza that support Paragraph 6 of Your Answer, including but not limited to your denial that the term "BOI NA BRAZA... [is] primarily geographically descriptive ... within the meaning of Section 2(e) of the Trademark Act..."

**ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant because the Section 2(e) grounds have been dismissed. Boi Na Braza also objects to this interrogatory as vague and ambiguous because there is no reference to the translation of "BOI NA BRAZA" and no statement about the mark being geographically descriptive in the Notice of Opposition or Boi Na Braza's response in paragraph 6 of its Answer, and therefore Applicant cannot answer this question.

**INTERROGATORY NO. 7:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza that support Paragraph 6 of Your Answer, including but not limited to your denial that the term "BOI NA BRAZA... [is] geographically deceptively misdescriptive ... within the meaning of Section 2(e) of the Trademark Act..."

**ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant because the Section 2(e) grounds have been dismissed. Boi Na Braza also objects to this interrogatory as vague and ambiguous because there is no reference to the translation of "BOI NA BRAZA" and no statement about the mark being geographically deceptively misdescriptive in the Notice of Opposition or Boi Na

Braza's response in paragraph 6 of its Answer, and therefore Applicant cannot answer this question.

**INTERROGATORY NO. 8:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza that support Paragraph 7 of Your Answer, including but not limited to your contention that Terra Sul's claims are barred by the Doctrine of Laches.

**ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant because Boi Na Braza has not asserted a laches defense. Boi Na Braza also objects to this interrogatory as vague and ambiguous because there is no reference in Paragraph 7 of Boi Na Braza's Answer to a contention that Terra Sul's claims are barred by the Doctrine of Laches, and therefore Applicant cannot answer this question.

**INTERROGATORY NO. 9:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza that support Paragraph 8 of Your Answer, including but not limited to your contention that Terra Sul's claims are barred by the Doctrine of Waiver.

**ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant because Boi Na Braza has not asserted a waiver defense. Boi Na Braza also objects to this interrogatory as vague and ambiguous because there is no reference in Paragraph 8 of Boi Na Braza's Answer to a contention that Terra Sul's claims are barred by the Doctrine of Waiver, and therefore Applicant cannot answer this question.

**INTERROGATORY NO. 10:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza that support Paragraph 9 of Your Answer, including but not limited to your contention that Terra Sul's claims are barred by the Doctrine of Acquiescence.

**ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant because Boi Na Braza has not asserted an acquiescence defense. Boi Na Braza also objects to this interrogatory as vague and ambiguous because there is no reference in Paragraph 9 of Boi Na Braza's Answer to a

contention that Terra Sul's claims are barred by the Doctrine of Acquiescence, and therefore Applicant cannot answer this question.

**INTERROGATORY NO. 11:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza that support Paragraph 10 of Your Answer, including but not limited to your contention that Terra Sul's claims are barred by the Doctrine of Estoppel and Equitable Estoppel.

**ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant because Boi Na Braza has not asserted an estoppel defense. Boi Na Braza also objects to this interrogatory as vague and ambiguous because there is no reference in Paragraph 10 of Boi Na Braza's Answer to a contention that Terra Sul's claims are barred by the Doctrine of Estoppel and Equitable Estoppel, and therefore Applicant cannot answer this question.

**INTERROGATORY NO. 12:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza that support Paragraph 11 of Your Answer, including but not limited to your contention that Terra Sul's claims are barred by the Doctrine of Unclean Hands.

**ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant because Boi Na Braza has not asserted an unclean hands defense. Boi Na Braza also objects to this interrogatory as unintelligible, vague, and ambiguous because there is no Paragraph 11 of Boi Na Braza's answer, and therefore Applicant cannot answer this question.

**INTERROGATORY NO. 13:**

Identify each and every instance known by Boi Na Braza of the use of the term "boi na braza," with or without a "TM" designation and with or without a direct association to Boi Na Braza's name, including uses by Boi Na Braza and uses by other entities (whether authorized or not), and including the dates of each instance of use and the product or service associated with each such use and the geographic regions of use.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Boi Na Braza further objects to this interrogatory

as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza further objects to this interrogatory because it seeks information that is not within Boi Na Braza's possession, control or custody.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it has used the "Boi Na Braza" mark continuously in the marketing and advertising of its restaurant services since at least as early as July 1, 1999. Boi Na Braza has used, advertised and promoted the "Boi Na Braza" mark in numerous magazines and publications that are circulated throughout the entire United States and internationally, as well as on its website, located at [www.boinabraza.com](http://www.boinabraza.com). Apart from Terra Sul's use of the names "Churrascaria Boi Na Brasa" and "Boi Na Brasa Bar & Grill," Boi Na Braza is only aware of one other instance of use of the phrase "boi na brasa," by a company named Ravia Investments, for a restaurant in Pampano Beach, Florida. The restaurant is believed to have begun using the name around November of 2006, but as presently advised, is no longer in business.

**INTERROGATORY NO. 14:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza relating to any customer surveys or polls with regard to uses of the term "boi na braza" by Boi Na Braza or others.

**ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant because the Section 2(e) grounds have been dismissed. Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Boi Na Braza further objects to this interrogatory because it seeks information that is not within Boi Na Braza's possession, control or custody.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza is not aware of any customer surveys or polls with regard to uses of the term "boi na braza."

**INTERROGATORY NO. 15:**

Identify all sources, publications and/or Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza relating to or evidencing how the term "boi na braza" is distinctive to the relevant public.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Boi Na Braza objects to this interrogatory as irrelevant because the Section 2(e) grounds have been dismissed. Further, Boi Na Braza objects

to this interrogatory because it seeks information that is not within Boi Na Braza's possession, control or custody.

**INTERROGATORY NO. 16:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza relating to the creation or origination of the term "boi na braza" by Boi Na Braza.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Boi Na Braza also objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that the name "boi na braza" is a well known name that is often used in Brazil. Based on their knowledge of the name from its use in Brazil, the Matheus brothers chose this name for their restaurant business and began marketing the business as such at least as early as July 1, 1999. The Matheus brothers changed the "s" to a "z" to give the name more distinctiveness.

**INTERROGATORY NO. 17:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza relating to the marketing, promotion, sale or use of the term "boi na braza" by Boi Na Braza.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it has used, advertised and promoted the "BOI NA BRAZA" name for its restaurant services since at least as early as July 1, 1999. It has marketed and advertised in numerous magazines and publications that are circulated throughout the entire United States and internationally, as well as on its website, located at [www.boinabraza.com](http://www.boinabraza.com). Boi Na Braza has long engaged the services of Wellspring & Associates to handle the majority of such marketing and advertising on its behalf.

**INTERROGATORY NO. 18:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Boi Na Braza relating to the date of first use of the term "boi na braza" by Boi Na Braza.



**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Boi Na Braza also objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that the name “boi na brasa” is a well known name that is often used in Brazil. Based on their knowledge of the name from its use in Brazil, the Matheus brothers chose this name for their restaurant business and began marketing the business as such at least as early as July 1, 1999. The Matheus brothers changed the “s” to a “z” to give the name more distinctiveness.

**INTERROGATORY NO. 19:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul’s First Set of Interrogatories to Boi Na Braza relating to Boi Na Braza’s knowledge or awareness of Terra Sul’s use of the terms “boi na brasa” and/or “churrascaria boi na brasa.”

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Boi Na Braza also objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it had no knowledge of Terra Sul’s use of the terms “boi na brasa” and/or “churrascaria boi na brasa” until it was informed by Terra Sul’s counsel, on or about January 19, 2007.

**INTERROGATORY NO. 20:**

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul’s First Set of Interrogatories to Boi Na Braza relating to the geographic scope or area (by city, state and country) of Boi Na Braza’s use of the term “boi na braza” in connection with its restaurant business.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it operates restaurants in Dallas, Texas and Cincinnati, Ohio,

formerly in Atlanta Georgia, and currently is the licensor of the “BOI NA BRAZA” name in Atlanta, Georgia. Boi Na Braza advertises the “BOI NA BRAZA” mark nationally and internationally through the services of Wellspring & Associates. Specifically, its advertisements are placed in American Way magazine and Delta Sky magazine, which have a circulation that covers the entire United States, as well as numerous countries internationally. Its website, located at [www.boinabraza.com](http://www.boinabraza.com), may viewed around the world. Boi Na Braza also advertises in publications that are local to its various restaurants, located in Dallas, Texas and Cincinnati, Ohio. There is also advertising local to a restaurant in Atlanta, Georgia, which is a licensee of the “BOI NA BRAZA” trademark.

**INTERROGATORY NO. 21:**

Identify any and all expert witnesses who may testify at trial through deposition, declaration and/or affidavit, and consulting expert witnesses whose mental impressions or opinions have been reviewed by a testifying expert, and in your answer include the following:

- (a) The expert's name, business name, employer, address, and telephone number;
- (b) The facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with the case and in which discovery is sought, regardless of when and how the factual information was acquired;
- (c) The expert's mental impressions and opinions formed or made in connection with the case and in which discovery is sought, and any methods used to derive;
- (d) Any bias of the witness;
- (e) A description of all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of a testifying expert's testimony; and
- (f) Attach the expert’s current resume and bibliography.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it has yet to determine the need for any expert witnesses and thus has not, as yet, identified any such expert witnesses to testify at trial. Boi Na Braza will duly supplement its response if necessary.

**INTERROGATORY NO. 22:**

Identify the name, address, employer, and telephone number of persons having knowledge of relevant facts supporting or refuting each and every allegation in Your Answer to Terra Sul's Petition to Cancel, the relevant facts believed by You to be known by each such person and whether that person is expected to be called to testify at trial through deposition, declaration and/or affidavit.

**ANSWER:**

Boi Na Braza objects to this interrogatory as unintelligible, vague, and ambiguous because there is no Petition to Cancel and therefore no Answer to any Petition to Cancel. Boi Na Braza also objects to this interrogatory as it is overly broad and unduly burdensome. Further, Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine.

Subject to the foregoing general and specific objections, and without waiving the same, Boi Na Braza responds that it believes the following people to have relevant facts supporting our Answer to Terra Sul's Notice of Opposition filed on August 23, 2010. Boi Na Braza has not made any decisions as to whether it expects to call any of the following people to testify through deposition, declaration and/or affidavit.

Mr. Jonas Matheus  
415 Duncan Perry Road  
Arlington, Texas 76011  
817-652-0526

Mr. Matheus is the former Secretary of Boi Na Braza Holdings, LLC. He is believed to be familiar with information regarding the general business operations of Boi Na Braza and its conception, development and marketing of the "BOI NA BRAZA" name for its restaurants.

Mr. Julio Matheus  
Boi Na Braza Holdings, LLC  
4025 William D Tate  
Grapevine, Texas 76051  
817-329-5514

Mr. Matheus is President of Boi Na Braza Holdings, LLC. He is believed to be familiar with information regarding the general business operations of Boi Na Braza and its conception, development and marketing of the "BOI NA BRAZA" name for its restaurants.

Mr. Joseph Matheus  
415 Duncan Perry Road  
Arlington, Texas 76011  
817-652-0526

Mr. Matheus is a former President of Boi Na Braza Holdings, LLC. He is believed to be familiar with information regarding the general business operations of Boi Na Braza and its conception, development and marketing of the "BOI NA BRAZA" name for its restaurants.

Neimar Hensel  
Boi Na Braza Cincinatti, LLC  
4025 William D Tate  
Grapevine, Texas 76051  
817-329-5514

Mr. Hensel is a manager at the Cincinatti location of Boi Na Braza. He is believed to have knowledge regarding Terra Sul's knowledge of and statements regarding Boi Na Braza.

Haroldo F. De Mello  
Formerly of Boi Na Braza Atlanta, LLC  
Rua Frei Mansueto #1520, Apt. 420  
Fortaleza, Ceara  
Brazil

Mr. De Mello is a former manager of the Atlanta location of Boi Na Braza. He is believed to have knowledge regarding Terra Sul's knowledge of and statements regarding

**INTERROGATORY NO. 23:**

Identify all of the channels of trade in or through which Boi Na Braza markets and/or sells or intends to market and/or sell any product or service of Boi Na Braza under the mark "boi na braza," and for each such product or service of Boi Na Braza state the annual dollar volume of such sales in or to the United States in that channel for each year (or for each month for periods less than a year) from the date of the first such sale in each channel to the present.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Boi Na Braza further objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza further objects to this interrogatory as it seeks confidential business information.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it operates restaurants in Dallas, Texas and Cincinnati, Ohio, formerly in Atlanta, Georgia, and currently is the licensor of the "BOI NA BRAZA" name in Atlanta, Georgia. Boi Na Braza advertises the "BOI NA BRAZA" mark nationally and internationally through the services of Wellspring & Associates. Specifically, its advertisements are placed in American Way magazine and Delta Sky magazine, which have a circulation that covers the entire United States, as well as numerous countries internationally. It also advertises its services through its website, located at [www.boinabraza.com](http://www.boinabraza.com). Boi Na Braza also advertises in

publications that are local to its various restaurants, located in Dallas, Texas and Cincinnati, Ohio. There is also advertising local to a restaurant in Atlanta, Georgia, which is a licensee under the “BOI NA BRAZA” trademark.

**INTERROGATORY NO. 24:**

For all answers and responses to Terra Sul’s First Requests for Admission (No. 1-23) not unequivocally admitted, state the basis for, and identify all facts, persons with knowledge and Documents supporting Boi Na Braza’s denial or partial admission of each individual Request for Admission by Terra Sul.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza further objects to the extent that this interrogatory seeks information relating to an admission request that was objected to and, as to any such request, objects to providing such information for the same reason the request was objected to. Further, Boi Na Braza objects to the extent that this interrogatory seeks to impose a burden greater than allowed under the Federal Rules of Civil Procedure.

Subject to the foregoing general and specific objections, and without waiving the same, Boi Na Braza states that the information requested is found in Boi Na Braza’s Objections and Responses to Terra Sul’s First Requests for Admission (Nos. 1-23).

**INTERROGATORY NO. 25:**

Identify separately for each individual Interrogatory 1-24, all persons involved in any way in the submission of information for or the preparation of answers, objections or responses to these interrogatories.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza also objects to this interrogatory because it is overly broad, unduly burdensome and duplicative.

Subject to the foregoing specific and general objections, Boi Na Braza responds that the following people were involved in the preparation of answers, objections or responses to these interrogatories:

Julio Matheus

**INTERROGATORY NO. 26:**

If your answer to Admission No. 13 is not unequivocally “admitted,” identify all evidence supporting any use of the term “boi na braza” by Boi Na Braza prior to June 24, 1999.

**ANSWER:**

Boi Na Braza objects to this interrogatory as irrelevant to any issue in this proceeding. Boi Na Braza also objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that in the second half of 1998, Jonas Matheus, Julio Matheus and Joseph Matheus (the “Matheus Brothers”) researched and chose this name for their restaurant business and purchased land to build their first restaurant.

**INTERROGATORY NO. 27:**

If your answer to Admission No. 14 is not unequivocally “admitted,” identify all evidence supporting any use of the term “boi na braza” by Boi Na Braza prior to June 1, 1999.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Subject to and foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that in the second half of 1998, Jonas Matheus, Julio Matheus and Joseph Matheus (the “Matheus Brothers”) researched and chose this name for their restaurant business and purchased land to build their first restaurant.

**INTERROGATORY NO. 28:**

Identify the relevant and typical consumer of Boi Na Braza’s goods and services.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Boi Na Braza further objects that the phrase “relevant and typical consumer” as vague and ambiguous, particularly because no consumer is relevant to the issues involved in the present proceeding.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that members of the United States general public patronize its restaurants.

**INTERROGATORY NO. 29:**

In conjunction with your response to Interrogatory No. 28, identify and describe what the term “braza” means to the relevant and typical consumer of Boi Na Braza’s goods and services.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Boi Na Braza further objects that the phrase “relevant and typical consumer” as vague and ambiguous, particularly because no consumer is relevant to the issues involved in the present proceeding. Boi Na Braza also objects to this interrogatory as it implies that the relevant consumer is Portuguese-speaking and able to translate the phrase “boi na braza” into English. Boi Na Braza further objects to this interrogatory as it seeks information which Boi Na Braza has no way of knowing.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza maintains that members of the United States general public patronize its restaurant who, with rare exceptions, are not likely to speak Portuguese. Boi Na Braza therefore responds that the term “braza” likely has no meaning to members of the United States general public who patronize its restaurant.

**INTERROGATORY NO. 30:**

If your answer to Admission No. 17 is not unequivocally “admitted,” state the basis for Boi Na Braza’s answer to Admission No. 17 and identify any and all evidence supporting Boi Na Braza’s contention that the ordinary consumer would not understand the term “braza” to mean “things Brazilian” or relating to Brazil.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Boi na Braza objects to this interrogatory as the term “ordinary consumer” is vague and ambiguous.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that the members of the United States general public who patronize Boi Na Braza’s restaurants are generally not Portuguese-speaking and therefore do not understand the term “braza” to have any meaning, nor do they understand it to mean “things Brazilian” or relating to Brazil. Furthermore, the Matheus Brothers are each founders of Boi Na Braza and each is a native Brazilian and a fluent speaker of the Portuguese language. As fluent speakers of the language, the Matheus Brothers do not understand the translation of the word “braza” from Portuguese to English to be “things Brazilian” or relating to Brazil. Moreover, Maria A. Laporte, a professional certified translator, member of the American Translators Association, has certified that the translation of “Boi Na Braza,” from Portuguese to English, is “Ox in ember” or “Ox on hot coal.” According to Ms. Laporte, the correct spelling of the word “Braza” in Portuguese is with an “s” and not a “z.”

**INTERROGATORY NO. 31:**

Describe in detail, and identify all evidence supporting your answer, all of the facts and circumstances concerning Boi Na Braza’s adoption of the term “boi na braza” as a potential

trademark and all the reasons for the adoption of “boi na braza” as a trademark for Boi Na Braza’s goods or services.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Boi Na Braza also objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza’s answers to the interrogatories set forth above and in the previous cancellation proceeding between the parties (Cancellation No. 92047056).

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that the term “boi na braza” is a well known term that is used often in Brazil. Based on their knowledge of the term from its use in Brazil, the Matheus Brothers chose this name for their restaurant business and began using this name for the business as such at least as early as July 1, 1999. The Matheus Brothers changed the “s” to a “z” to give the name more distinctiveness.

**INTERROGATORY NO. 32:**

Identify all types and forms of marketing activity or advertising in commerce by Boi Na Braza using the mark “boi na braza” in conjunction with Boi Na Braza’s goods and services from 1999 to the present time.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza’s answers to the interrogatories set forth above and in the previous cancellation proceeding between the parties (Cancellation No. 92047056).

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it has marketed and advertised in numerous magazines and publications that are circulated throughout the entire United States and internationally, as well as on its website, located at [www.boinabraza.com](http://www.boinabraza.com). Boi Na Braza has long engaged the services of Wellspring & Associates to handle the majority of such marketing and advertising efforts on its behalf. Specifically, its advertisements are placed in American Way magazine and Delta Sky magazine, as well as publications that are local to Boi Na Braza’s Dallas, Texas and Cincinnati, Ohio restaurant locations. There is also advertising local to a restaurant in Atlanta, Georgia, which is a licensee of the “BOI NA BRAZA” trademark.

**INTERROGATORY NO. 33:**



For each of the types and forms of advertising identified in your answer to Interrogatory No. 32, identify the date, time and place of each marketing activity or advertisement.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza's answers to the interrogatories set forth above and in the previous cancellation proceeding between the parties (Cancellation No. 92047056).

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that these advertisements have been continuous and ongoing since at least as early as July 1, 1999 and have been principally conducted through the services of Wellspring & Associates.

**INTERROGATORY NO. 34:**

For each of the types and forms of advertising identified in your answer to Interrogatory No. 32, identify the amount of money spent by Boi Na Braza on each marketing activity or advertisement.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza's answers to the interrogatories set forth above and in the previous cancellation proceeding between the parties (Cancellation No. 92047056).

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it has spent in excess of two million U.S. dollars (\$2,000,000.00 USD) in advertising its "BOI NA BRAZA" mark through the various means of advertisements.

**INTERROGATORY NO. 35:**

If your answer to Admission No. 19 is not unequivocally "admitted," identify all instances of alleged actual confusion by the relevant public and identify all evidence in support thereof.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza's answers to the interrogatories set forth above and in the previous cancellation proceeding between the parties

(Cancellation No. 92047056). Further, Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Further, Boi Na Braza objects to the extent that this interrogatory seeks to impose a burden greater than allowed under the Federal Rules of Civil Procedure.

Subject to the foregoing specific and general objections and without waiving the same, Boi Na Braza responds that on several occasions, members of its staff in Atlanta, Georgia and Dallas, Texas locations were approached by customers claiming to have dined at Boi Na Braza's restaurant in New Jersey. When the staff informed the customers that there was no related restaurant in New Jersey, some consumers claimed that staff from the New Jersey restaurant claimed that there was a relationship between the restaurants.

**INTERROGATORY NO. 36:**

If your answer to Admission No. 19 is not unequivocally "admitted," identify each of the members of the relevant public that were allegedly confused, when the alleged confusion occurred, and where the alleged confusion occurred.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza's answers to the interrogatories set forth above and in the previous cancellation proceeding between the parties (Cancellation No. 92047056). Further, Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Further, Boi Na Braza objects to the extent that this interrogatory seeks to impose a burden greater than allowed under the Federal Rules of Civil Procedure.

Subject to the foregoing specific and general objections and without waiving the same, Boi Na Braza responds that the members of the general public that were confused were not regular customers and names were not recorded. The instances of confusion occurred between the years of 2003 and 2006 at the Atlanta, Georgia and Dallas, Texas locations of the Boi Na Braza restaurants.

**INTERROGATORY NO. 37:**

Identify the physical location of all current and/or previously-existing restaurants or other entities associated with or identified by Boi Na Braza's mark.

**ANSWER:**

Boi Na Braza Grapevine, LLC.  
4025 William D. Tate  
Grapevine, Texas 76051

Boi Na Braza Cincinnati, LLC.  
441 Vine Street  
Cincinnati, Ohio 45202

Boi Na Braza Atlanta, LLC. (No longer in operation).  
3149 E. Shadowlawn Ave NE  
Atlanta, Georgia 30305-2405

**INTERROGATORY NO. 38:**

If your answer to Admission No. 20 is not unequivocally “admitted,” identify each restaurant or other entity associated with or identified by Boi Na Braza’s mark “boi na braza” in the State of New Jersey.

**ANSWER:**

No answer required.

**INTERROGATORY NO. 39:**

If your answer to Admission No. 21 was not unequivocally “admitted,” identify each restaurant or other entity associated with or identified by Boi Na Braza’s mark “boi na braza” in the State of New York.

**ANSWER:**

No answer required.

**INTERROGATORY NO. 40:**

Identify any current or previously-existing plans or intentions by Boi Na Braza to open or operate a restaurant in New Jersey using the “boi na braza” mark, and identify all evidence supporting any such plans or intentions.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Further, Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza also objects to this interrogatory as seeking confidential commercial and/or trade secret information for no reason other than negotiation leverage since such information has no bearing on any issue in this proceeding.

Subject to the foregoing general objections and without waiving the same, Boi Na Braza responds that it has no definite plans or intentions to open or operate a restaurant in New Jersey using the “BOI NA BRAZA” mark.

**INTERROGATORY NO. 41:**

Identify any current or previously-existing plans or intentions by Boi Na Braza to open or operate a restaurant in New York using the “boi na braza” mark, and identify all evidence supporting any such plans or intentions.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Further, Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza also objects to this interrogatory as seeking confidential commercial and/or trade secret information for no reason other than negotiation leverage since such information has no bearing on any issue in this proceeding.

Subject to the foregoing general objections and without waiving the same, Boi Na Braza responds that it intends to open a restaurant in New York under the “BOI NA BRAZA” mark in the future.

**INTERROGATORY NO. 42:**

Identify any and all marketing activity or advertisements directed to the State of New Jersey by Boi Na Braza relating to Boi Na Braza’s restaurants or related entities and using the mark “boi na braza” in connection therewith.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that its advertising is both national and global in nature. Specifically, its advertisements are placed in American Way magazine and Delta Sky magazine, which have a circulation that covers the entire United States. Its website, located at [www.boinabraza.com](http://www.boinabraza.com), may be viewed around the world.

**INTERROGATORY NO. 43:**

Identify any and all marketing activity or advertisements directed to the State of New York by Boi Na Braza relating to Boi Na Braza’s restaurants or related entities and using the mark “boi na braza” in connection therewith.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that its advertising is both national and global in nature. Specifically, its advertisements are placed in American Way magazine and Delta Sky magazine, which have a circulation that covers the entire United States. Its website, located at [www.boinabraza.com](http://www.boinabraza.com), may be viewed around the world.

**INTERROGATORY NO. 44:**

Identify all evidence supporting Boi Na Braza's contention that "Boi Na Braza believes that Terra Sul was not only aware of its restaurant services long before Boi Na Braza initiated any contact with Mr. Farid Saleh but in fact implied a false association with Boi Na Braza's organization" as stated in Boi Na Braza's Response to Terra Sul's Interrogatory Nos. 8-12, dated August 7, 2007.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Boi Na Braza also objects to this interrogatory as ambiguous because there are no responses to Terra Sul's Interrogatory Nos. 8-12, dated August 7, 2007. Accordingly, Boi Na Braza cannot answer this question.

**INTERROGATORY NO. 45:**

If your answer to any of Admission Nos. 13-21 is not unequivocally "admitted," state the basis for, and identify all facts and evidence, supporting your denial of each individual Request for Admission.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza's answers to the interrogatories set forth above and in the previous cancellation proceeding between the parties (Cancellation No. 92047056). Further, Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Further, Boi Na Braza objects to the extent that this interrogatory seeks to impose a burden greater than allowed under the Federal Rules of Civil Procedure. Boi Na Braza further objects to the extent that this interrogatory seeks information relating to an admission request was objected to and, as to any such request, objects to providing such information for the same reason the request was objected to. Boi Na Braza further objects to this interrogatory as duplicative.

Subject to the foregoing specific and general objections, please see the responses to Interrogatory Nos. 13-21.

**INTERROGATORY NO. 46:**

If you contend that you have any trademark rights or proprietary interests in the terms “churrascaria boi na brasa” and/or “boi na brasa,” state the basis for your contention and identify all evidence in support thereof.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza’s answers to the interrogatories set forth above and in the previous cancellation proceeding between the parties (Cancellation No. 92047056). Further, Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine.

Subject to the foregoing general objections, and without waiving the same, Boi Na Braza responds that it is the owner of U.S. Registration No. 2,666,968 for the mark BOI NA BRAZA & Design in connection with restaurant services. The term “churrascaria” is purely descriptive of the services and the term “boi na brasa” is a phonetic equivalent to the mark BOI NA BRAZA. The registration is prima facie evidence of the validity of the mark, of the registration of the mark, of Boi Na Braza’s ownership of the mark, and of Boi Na Braza’s exclusive right to use the mark in commerce on or in connection with the services specified in the registration.

**INTERROGATORY NO. 47:**

If you seek to own any trademark rights or proprietary interests in the terms “churrascaria boi na brasa” and/or “boi na brasa,” identify all previous or planned attempts to acquire and/or register such rights.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza’s answers to the interrogatories set forth above and in the previous cancellation proceeding between the parties (Cancellation No. 92047056). Further, Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that through its ownership of Registration No. 2,666,968 for the mark BOI NA BRAZA & Design, it owns trademark rights or proprietary interests in the terms “churrascaria boi na brasa” and/or “boi na brasa” given the purely descriptive nature of the word “churrascaria” and the phonetic equivalence of the term “boi na brasa” and Boi Na Braza’s registration for BOI NA BRAZA.

**INTERROGATORY NO. 48:**

If you contend that Terra Sul is improperly using the terms “churrascaria boi na brasa” and/or “boi na brasa” to identify its restaurant business, state the basis for your contention and identify all evidence in support thereof.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome and irrelevant to any issue in this proceeding. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza’s answers to the interrogatories set forth above and in the previous cancellation proceeding between the parties (Cancellation No. 92047056). Further, Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it is the owner of U.S. Reg. No. 2,666,968 for the mark BOI NA BRAZA & Design. The registration is prima facie evidence of the validity of the mark, of the registration of the mark, of Boi Na Braza’s ownership of the mark and of Boi Na Braza’s exclusive right to use the mark in commerce on or in connection with the services specified in the registration. Although Terra Sul claims rights in a confusingly similar mark, Terra Sul has yet to establish ownership of prior rights in such mark. Further, Boi Na Braza is of the belief that Terra Sul has claimed an association with Boi Na Braza to members of the general public, when in fact no such association exists.

**INTERROGATORY NO. 49:**

If you contend that Boi Na Braza has priority of use or superior rights over Terra Sul to use the terms “churrascaria boi na brasa” and/or “boi na brasa” in the State of New Jersey, state the basis for your contention and identify all evidence in support thereof.

**ANSWER:**

Boi Na Braza makes no such claim, and therefore, do not need to provide an answer.

**INTERROGATORY NO. 50:**

If you contend that Boi Na Braza has priority of use or superior rights over Terra Sul to use the terms “churrascaria boi na brasa” and/or “boi na brasa” in the State of New York, state the basis for your contention and identify all evidence in support thereof.

**ANSWER:**

Boi Na Braza objects to this interrogatory as it seeks information that is subject to the attorney-client privilege and/or work product doctrine.

Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it is the owner of U.S. Reg. No. 2666,968 for the mark BOI NA

BRAZA & Designn. The registration is prima facie evidence of the validity of the mark, of the registration of the mark, of Boi Na Braza's ownership of the mark and of Boi Na Braza's exclusive right to use the mark in commerce on or in connection with the services specified in the registration. Although Terra Sul claims rights in a confusingly similar mark, Terra Sul has yet to establish ownership of prior rights in such mark.

Dated: July 5, 2012

Respectfully submitted,  
BOI NA BRAZA HOLDINGS, LLC

By: /s/ Justin S. Cohen  
Herbert J. Hammond  
Deborah L. Lively  
Justin S. Cohen  
THOMPSON & KNIGHT LLP  
1722 Routh Street  
Suite 1500  
Dallas, Texas 75201  
(214) 969-1781  
(214) 969-1751 (Fax)  
  
Attorneys for Applicant  
Boi Na Braza Holdings, LLC



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Objections & Answers to Terra Sul Corporation's First Interrogatories is being served upon Excepted User's attorney of record, Eamon J. Wall, by electronic mail to EWall@walltong.com and LCrater@walltong.com, as well as by certified mail, return receipt requested, on this 5<sup>th</sup> day of July, 2012, in an envelope addressed to:

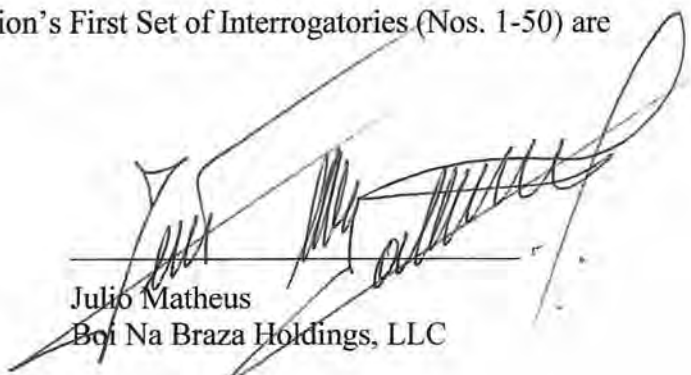
Eamon J. Wall  
Wall & Tong, LLP  
25 James Way  
Eatontown, New Jersey 07724

/s/ Justin S. Cohen  
Justin S. Cohen

**VERIFICATION**

I declare under penalty of perjury that the responses contained in Boi Na Braza's  
Objections & Responses to Terra Sul Corporation's First Set of Interrogatories (Nos. 1-50) are  
true and correct.

Dated: July 5, 2012

  
\_\_\_\_\_  
Julio Matheus  
Boi Na Braza Holdings, LLC

# EXHIBIT B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Pending Application Serial No. 77/779,339  
Application Filing Date: July 13, 2009  
Publication Date: June 22, 2010

Boi Na Braza, LLC,	§	
	§	
Applicant.	§	
	§	
vs.	§	Concurrent Use No. 94002525
	§	
Terra Sul Corporation a/k/a	§	
Churrascaria Boi Na Brasa,	§	
	§	
Excepted User,	§	

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**OBJECTIONS AND RESPONSES TO TERRA SUL CORPORATION'S  
FIRST SET OF REQUESTS FOR ADMISSION (NOS. 1-23)**

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To: Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa, by and through its attorney of record, Eamon J. Wall, Wall & Tong, LLP, 25 James Way, Eatontown, New Jersey 07724.

Pursuant to Fed. R. Civ. P. 36 and the Trademark Trial and Appeal Board Manual of Procedure ("TBMP") Section 407.03, Applicant Boi Na Braza, LLC ("Boi Na Braza" or "Applicant"), hereby submits these Objections and Responses to Excepted User Terra Sul Corporation's ("Terra Sul") First Set of Requests for Admission.

### **General Objections**

1. Boi Na Braza objects to Terra Sul's requests as being overly broad and unduly burdensome. Many of the requests ask about issues, claims, and defenses that have no bearing whatsoever on the present proceeding. The only issue in this proceeding is the geographic scope of Terra Sul's prior use of its CHURRASCARIA BOI NA BRASA mark. Despite this relatively simple and straightforward issue, Terra Sul inquires into numerous irrelevant issues.

2. Terra Sul opposed registration of the mark BOI NA BRAZA on several grounds, including under Section 2(e) of the Lanham Act. On December 13, 2011, the Board dismissed Terra Sul's Section 2(e) grounds from this proceeding. Therefore, Boi Na Braza objects to each of Terra Sul's requests that relate to their Section 2(e) grounds on the basis that such requests are irrelevant and not likely to lead to admissible evidence.

3. In addition, the Board's June 12, 2009 decision in Cancellation No. 92047056 decided many factual issues between the parties. While Boi Na Braza disagrees with several of the Board's decisions, Boi Na Braza accepts the Board's decisions for the purposes of this proceeding.

4. Boi Na Braza objects to Terra Sul's Definitions and Instructions to the extent that they purport to impose a greater obligation on Boi Na Braza than is required by the Federal Rules of Civil Procedure or the TBMP.

5. Boi Na Braza objects to Terra Sul's Definitions and Instructions and requests to the extent that they are vague and ambiguous.

6. Boi Na Braza objects to Terra Sul's requests to the extent that they seek information protected by the attorney-client privilege and/or work product doctrine or any other applicable privilege or protection from discovery.

7. Boi Na Braza objects to Terra Sul's requests to the extent that they seek information that is not within Boi Na Braza's possession, custody or control.

8. Each and all of these General Objections are hereinafter incorporated by reference in response to the Requests for Admission that follow.

## **OBJECTIONS & RESPONSES**

### **REQUEST NO. 1:**

Admit that Boi Na Braza's first use of the term "boi na braza" was on or after July 1, 1999.

### **RESPONSE:**

Denied.

### **REQUEST NO. 2:**

Admit that Boi Na Braza has never owned or operated a restaurant in the New Jersey area under the names "Boi Na Braza," "Boi Na Brasa" or "Churrascaria Boi Na Brasa."

### **RESPONSE:**

Boi Na Braza objects that the phrase "New Jersey area" as vague and ambiguous. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza admits that it has never owned or operated a restaurant under the names "Boi Na Braza," "Boi Na Brasa," or "Churrascaria Boi Na Brasa" in the state of New Jersey.

### **REQUEST NO. 3:**

Admit that Boi Na Braza has never owned or operated a restaurant in the New York area under the names "Boi Na Braza," "Boi Na Brasa" or "Churrascaria Boi Na Brasa."

### **RESPONSE:**

Boi Na Braza objects that the phrase "New York area" as vague and ambiguous. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza admits that it has never owned or operated a restaurant under the names "Boi Na Braza," "Boi Na Brasa," or "Churrascaria Boi Na Brasa" in the state of New York.

### **REQUEST NO. 4:**

Admit that Boi Na Braza has never operated a Brazilian-style churrascarian restaurant in the New Jersey area.

### **RESPONSE:**

Boi Na Braza objects that the phrase "New Jersey area" as vague and ambiguous. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza

admits that it has never operated a Brazilian-style churrascarian restaurant in the state of New Jersey.

**REQUEST NO. 5:**

Admit that Boi Na Braza has never operated a Brazilian-style churrascarian restaurant in the New York area.

**RESPONSE:**

Boi Na Braza objects that the phrase “New York area” as vague and ambiguous. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza admits that it has never operated a Brazilian-style churrascarian restaurant in the state of New York.

**REQUEST NO. 6:**

Admit that Terra Sul used the terms “Churrascaria Boi Na Brasa” and “Boi Na Brasa” prior to Boi Na Braza’s first use of the term “Boi Na Braza.”

**RESPONSE:**

Boi Na Braza objects to this request as irrelevant, vague, and ambiguous. Boi Na Braza notes that the Board’s June 12, 2009 decision in Cancellation No. 92047056 held that Terra Sul’s “own use of the mark BOI NA BRASA began during the spring or at the latest June, 1999.” Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza states that it has made a reasonable inquire, but is without sufficient information to either admit or deny and therefore denies this request on that basis.

**REQUEST NO. 7:**

Admit that Terra Sul used the terms “Churrascaria Boi Na Brasa” and “Boi Na Brasa” in New Jersey prior to Boi Na Braza’s registration of the term “Boi Na Braza” as a trademark.

**RESPONSE:**

Boi Na Braza objects to this request as irrelevant, vague, and ambiguous. Boi Na Braza notes that the Board’s June 12, 2009 decision in Cancellation No. 92047056 held that Terra Sul’s “own use of the mark BOI NA BRASA began during the spring or at the latest June, 1999.” Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza admits that Terra Sul used the terms “Churrascaria Boi Na Brasa” and “Boi Na Brasa” in New Jersey prior to Boi Na Braza’s registration of the term “Boi Na Braza” as a trademark as Boi Na Braza’s registrations (Reg. Nos. 2666968 and 2534608) were both registered in 2002.



**REQUEST NO. 8:**

Admit that the term “Braza” is a slang term for “things Brazilian” when translated from Portuguese to English.

**RESPONSE:**

Boi Na Braza objects to this request as irrelevant. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza denies that the term “Braza” is a slang term for “things Brazilian” when translated from Portuguese to English.

**REQUEST NO. 9:**

Admit that Boi Na Braza’s “Boi Na Braza” restaurant(s) do not serve food or food-related products imported directly from Brazil.

**RESPONSE:**

Boi Na Braza objects to this request as irrelevant, vague, and ambiguous as to the phrases “food-related products” and “imported directly.” Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza denies that Boi Na Braza’s “Boi Na Braza” restaurants do not serve food or food-related products imported directly from Brazil, and further states that Boi Na Braza serves food products imported from Brazil through third parties.

**REQUEST NO. 10:**

Admit that Boi Na Braza’s “Boi Na Braza” restaurant(s) do not serve Ox or Ox-based beef directly imported from Brazil.

**RESPONSE:**

Boi Na Braza objects to this request as irrelevant, vague, and ambiguous as to the phrase “Ox-based beef.” Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza admits that Boi Na Braza’s “Boi Na Braza” restaurants do not serve Ox or Ox-based beef directly imported from Brazil.

**REQUEST NO. 11:**

Admit that Boi Na Braza does not own any trademark or proprietary rights in the terms “churrascaria boi na brasa” and/or “boi na brasa.”

**RESPONSE:**

Denied.

**REQUEST NO. 12:**

Admit that Boi Na Braza does not seek to own any trademark or proprietary rights in the terms “churrascaria boi na brasa” and/or “boi na brasa.”

**RESPONSE:**

Denied.

**REQUEST NO. 13:**

Admit that Boi Na Braza’s first use of the term “boi na braza” was on or after June 24, 1999.

**RESPONSE:**

Denied.

**REQUEST NO. 14:**

Admit that Boi Na Braza’s first use of the term “boi na braza” was on or after June 1, 1999.

**RESPONSE:**

Denied.

**REQUEST NO. 15:**

Admit that the term “boi na braza” was first used in connection with Boi Na Braza’s goods and services on July 19, 1999.

**RESPONSE:**

Denied.

**REQUEST NO. 16:**

Admit that the term “boi na braza” was first used in interstate commerce in connection with Boi Na Braza’s goods and services on September 11, 2000.

**RESPONSE:**

Denied.

**REQUEST NO. 17:**

Admit that the ordinary consumer of Boi Na Braza's goods and services may understand the term "braza" to mean "things Brazilian" or relating to Brazil.

**RESPONSE:**

Boi Na Braza objects to this request as irrelevant, vague, and ambiguous. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza denies that the ordinary consumer of Boi Na Braza's goods and services may understand the term "braza" to mean "things Brazilian" or relating to Brazil.

**REQUEST NO. 18:**

Admit that the domain name <boinabraza.com> was originally registered on June 26, 2000.

**RESPONSE:**

Admitted.

**REQUEST NO. 19:**

Admit that there is no evidence of any actual confusion by the relevant public concerning Terra Sul's use of the terms "Churrascaria Boi Na Brasa" or "Boi Na Brasa" in relation to Boi Na Braza's mark "boi na braza."

**RESPONSE:**

Denied.

**REQUEST NO. 20:**

Admit that Boi Na Braza has never owned, operated or controlled any restaurant or other entity associated with or identified by Boi Na Braza's mark "boi na braza" in the State of New Jersey.

**RESPONSE:**

Admitted.

**REQUEST NO. 21:**

Admit that Boi Na Braza has never owned, operated or controlled any restaurant or other entity associated with or identified by Boi Na Braza's mark "boi na braza" in any of the States of New York, Pennsylvania, Connecticut.

**RESPONSE:**

Admitted.

**REQUEST NO. 22**

Admit that Boi Na Braza's mark Boi Na Braza is confusingly similar to Terra Sul's mark Boi Na Brasa.

**RESPONSE:**

Applicant objects to this request as vague, unintelligible and ambiguous because the identification of Boi Na Braza's mark is not defined. Boi Na Braza notes that the Board's June 12, 2009 decision in Cancellation No. 92047056 held "that a likelihood of confusion exists between the marks BOI NA BRASA and BOI NA BRAZA used in connection with restaurant services." Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza admits that the marks BOI NA BRASA and BOI NA BRAZA are confusingly similar when used in connection with restaurant services.

**REQUEST NO. 23**

Admit that Terra Sul's mark Boi Na Brasa has been in use longer than Boi Na Braza's mark Boi Na Braza.

**RESPONSE:**

Applicant objects to this request as vague, unintelligible and ambiguous because the identification of Boi Na Braza's mark is not defined. Boi Na Braza notes that the Board's June 12, 2009 decision in Cancellation No. 92047056 held "that a likelihood of confusion exists between the marks BOI NA BRASA and BOI NA BRAZA used in connection with restaurant services." Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza states that it has made a reasonable inquire, but is without sufficient information to either admit or deny and therefore denies this request on that basis.

Dated: July 5, 2012

Respectfully submitted,  
BOI NA BRAZA HOLDINGS, LLC

By: /s/ Justin S. Cohen  
Herbert J. Hammond  
Deborah L. Lively  
Justin S. Cohen  
THOMPSON & KNIGHT LLP  
1722 Routh Street  
Suite 1500  
Dallas, Texas 75201  
(214) 969-1781  
(214) 969-1751 (Fax)

Attorneys for Applicant  
Boi Na Braza Holdings, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Objections & Answers to Terra Sul Corporation's First Interrogatories is being served upon Excepted User's attorney of record, Eamon J. Wall, by electronic mail to EWall@walltong.com and LCrater@walltong.com, as well as by certified mail, return receipt requested, on this 5<sup>th</sup> day of July, 2012, in an envelope addressed to:

Eamon J. Wall  
Wall & Tong, LLP  
25 James Way  
Eatontown, New Jersey 07724

/s/ Justin S. Cohen  
Justin S. Cohen

# EXHIBIT C



# United States Patent and Trademark Office

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## TTABVUE. Trademark Trial and Appeal Board Inquiry System

v1.5

### Cancellation

**Number:** 92047056

**Filing Date:** 01/29/2007

**Status:** Terminated

**Status Date:** 09/15/2009

**Interlocutory Attorney:** [MARY CATHERINE FAINT](#)

#### Defendant

**Name:** [BOI NA BRAZA, INC.](#)

**Correspondence:** [REMY M. DAVIS](#)  
THOMPSON & KNIGHT LLP  
1722 Routh Street Suite 1500  
DALLAS, TX 75201  
UNITED STATES  
[remy.davis@tklaw.com](mailto:remy.davis@tklaw.com)

**Serial #:** [75748967](#)      [Application File](#)

**Registration #:** [2534608](#)

**Application Status:** Cancelled - Section 18

**Mark:** BOI NA BRAZA

#### Plaintiff

**Name:** [TERRA SUL CORPORATION A/K/A CHURRASCARIA BOI NA BRASA](#)

**Correspondence:** [EAMON J. WALL](#)  
WALL & TONG, LLP  
595 SHREWSBURY AVENUE, SUITE 100  
SHREWSBURY, NJ 07702  
UNITED STATES  
[ewall@walltong.com](mailto:ewall@walltong.com)

#### Prosecution History

#	Date	History Text	Due Date
39	09/15/2009	TERMINATED	
38	09/15/2009	<a href="#">COMMR'S ORDER CANCELLING REGISTRATION</a>	
37	06/12/2009	<a href="#">BOARD'S DECISION: GRANTED</a>	
36	05/18/2009	SUBMITTED ON BRIEF	
35	04/30/2009	<a href="#">P'S REBUTTAL BRIEF</a>	
34	04/15/2009	<a href="#">FINAL BRIEF ON MERITS FOR DEFENDANT(S)</a>	
33	04/15/2009	<a href="#">CHANGE OF CORRESPONDENCE ADDRESS</a>	
32	03/16/2009	<a href="#">EXTENSION OF TIME GRANTED</a>	
31	03/13/2009	<a href="#">STIPULATION FOR AN EXTENSION OF TIME</a>	
30	02/27/2009	<a href="#">P'S EXHIBITS</a>	
29	02/27/2009	EXHIBITS A-10 THRU A-13	
28	02/27/2009	<a href="#">BRIEF ON MERITS FOR PLAINTIFF</a>	
27	02/25/2009	<a href="#">BRIEF ON MERITS FOR PLAINTIFF</a>	
26	01/19/2009	<a href="#">CHANGE OF CORRESPONDENCE ADDRESS</a>	
25	12/15/2008	<a href="#">PLAINTIFF'S NOTICE OF RELIANCE</a>	



**Prosecution History**

#	Date	History Text	Due Date
<a href="#">24</a>	11/12/2008	<a href="#">DEFENDANT'S NOTICE OF RELIANCE</a>	
<a href="#">23</a>	11/12/2008	<a href="#">CHANGE OF CORRESPONDENCE ADDRESS</a>	
<a href="#">22</a>	10/13/2008	<a href="#">EXTENSION OF TIME GRANTED</a>	
<a href="#">21</a>	10/13/2008	<a href="#">STIPULATION FOR AN EXTENSION OF TIME</a>	
20	09/09/2008	PL'S EXHIBIT NO. 13	
19	09/09/2008	PL'S EXHIBIT NO. 12	
18	09/09/2008	PL'S EXHIBIT NO. 11	
17	09/09/2008	PL'S EXHIBIT NO. 10	
<a href="#">16</a>	09/09/2008	<a href="#">P'S DEPOSITIN OF SALEH</a>	
<a href="#">15</a>	09/05/2008	<a href="#">TESTIMONY FOR PLAINTIFF</a>	
<a href="#">14</a>	02/04/2008	<a href="#">EXTENSION OF TIME GRANTED</a>	
<a href="#">13</a>	01/30/2008	<a href="#">STIPULATION FOR AN EXTENSION OF TIME</a>	
<a href="#">12</a>	12/04/2007	<a href="#">TRIAL DATES RESET</a>	
<a href="#">11</a>	11/30/2007	<a href="#">STIPULATION FOR AN EXTENSION OF TIME</a>	
<a href="#">10</a>	09/07/2007	<a href="#">STIPULATED PROTECTIVE AGREEMENT FILED AUGUST 23, 2007 IS NOTED</a>	
<a href="#">9</a>	08/23/2007	<a href="#">STIPULATED PROTECTIVE ORDER</a>	
<a href="#">8</a>	08/16/2007	<a href="#">TRIAL DATES RESET</a>	
<a href="#">7</a>	07/09/2007	<a href="#">STIPULATION FOR AN EXTENSION OF TIME</a>	
<a href="#">6</a>	05/23/2007	<a href="#">ANSWER</a>	
<a href="#">5</a>	02/21/2007	<a href="#">EXTENSION OF TIME GRANTED</a>	
<a href="#">4</a>	02/21/2007	<a href="#">STIPULATION FOR AN EXTENSION OF TIME</a>	
3	02/12/2007	PENDING, INSTITUTED	
<a href="#">2</a>	02/12/2007	<a href="#">NOTICE AND TRIAL DATES SENT; ANSWER DUE:</a>	03/24/2007
<a href="#">1</a>	01/29/2007	<a href="#">FILED AND FEE</a>	

Results as of 10/17/2012 04:26 PM

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# EXHIBIT D

ESTTA Tracking number: **ESTTA248588**

Filing date: **11/12/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92047056
Party	Defendant BOI NA BRAZA, INC.
Correspondence Address	REMY MCELROY DAVIS THOMPSON & KNIGHT L.L.P. 1700 PACIFIC AVENUE, SUITE 3300 DALLAS, TX 75201 UNITED STATES remy.davis@tklaw.com
Submission	Defendant's Notice of Reliance
Filer's Name	Remy M. Davis
Filer's e-mail	remy.davis@tklaw.com
Signature	/Remy M. Davis/
Date	11/12/2008
Attachments	Notice of Reliance.pdf ( 131 pages )(6858265 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

TERRA SUL CORPORATION A/K/A	§	
CHURRASCARIA BOI NA BRASA	§	
	§	
Opposer,	§	
	§	
V.	§	OPPOSITION NO. 92047056
	§	
BOI NA BRAZA, INC.,	§	
	§	
Applicant.	§	

**APPLICANT'S NOTICE OF RELIANCE UNDER  
TRADEMARK RULES OF PRACTICE 2.120(j) (1) & (3) and 2.122(e)**

Applicant, Boi Na Braza, Inc., hereby files this Notice of Reliance with the Trademark Trial and Appeal Board pursuant to Trademark Rules of Practice 2.120(j) (1) & (3) and 2.122(e), and the Trademark Trial and Appeal Board Manual of Procedure 704 et seq. and gives notice in accordance with the above rules of its intention to rely on the following material, copies of which are attached hereto and incorporated herein by reference:

**Discovery Deposition of Adverse Party**

30(b)(6) Deposition of Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa, taken of Farid Saleh on March 25, 2008, and attached Exhibits 1-15.

**Official Record**

State of New Jersey Business Registration Certificate issued June 12, 2008, page 1 of 1. This record is relevant to showing ownership of Opposer's alleged BOI NA BRASA service mark.

Dated: November 12, 2008

Respectfully submitted,

THOMPSON & KNIGHT LLP

By: Remy M. Davis  
Remy M. Davis  
THOMPSON & KNIGHT LLP  
1722 Routh Street  
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(214) 969-1751 (FAX)

ATTORNEY FOR APPLICANT

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **APPLICANT'S NOTICE OF RELIANCE UNDER TRADEMARK RULES OF PRACTICE 2.120(j) (1) & (3) and 2.122(e)** was served via First Class U.S. Mail to the following on November 12, 2008:

Mr. Eamon Wall  
Patterson & Sheridan, L.L.P.  
595 Shrewsbury Ave, Suite 100  
Shrewsbury, New Jersey 07702-1438

  
\_\_\_\_\_  
Remy M. Davis

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD  
In the Matter of Trademark Registration  
No. 2,534,608  
Registered on January 29, 2002

\*\*\*\*\*

TERRA SUL CORORATION a/k/a  
CHURRASCARIA BOI NA BRASA,  
Petitioner,

vs.

CANCELLATION NO.92047056

BOI NA BRAZA, INC.,  
Respondent.

\*\*\*\*\*

Transcript of the deposition of FARID  
SALEH, taken in the law offices of Simoes &  
Montiero, 83 Polk Street, Newark, New Jersey, on  
March 25, 2008 commencing at about nine o'clock in  
the forenoon.

CLASS ACT REPORTING AGENCY  
133-H Gaither Drive  
Mt. Laurel, NJ 08054

Terra Sul Corp. v. Boi Na Braza Inc.  
Farid Saleh

2 (Pages 2 to 5)

2	4
1 2 APPEARANCES: 3 THOMPSON & KNIGHT, LLP 4 By: IRENE R. DUBOWY, ESQ. 5 919 Third Avenue 6 New York, New York 10128 7 On behalf of Respondent 8 9 PATTERSON & SHERIDAN, LLP 10 By: EAMON J. WALL, ESQ. 11 595 Shrewsbury Avenue 12 Shrewsbury, New Jersey 07702 13 On behalf of Petitioner 14 15 16 17 18 19 20 21 22 23 24 25	1 about the subject matter of this proceeding. 2 The court reporter, he is going to take 3 down my questions and your answers so before you 4 start answering a question let me finish the 5 question first. That way it is going to be easier 6 for the court reporter and for the interpreter to be 7 able to do their jobs. 8 If at any time you don't understand a 9 question, rather than guessing I would prefer you to 10 tell us that you don't understand it and I will try 11 to rephrase my question. 12 A Okay. 13 Q If you respond to a question I am going to 14 assume that you understood it. 15 This deposition is being transcribed by 16 the court reporter and everything that is said here 17 today is actually going to be in a transcript so if 18 later on during the pendency of this proceeding if 19 there is any type of discrepancy between your 20 testimony here today and later we are going to ask 21 you to account for any discrepancy. 22 Your testimony today here is under oath as 23 if you were testifying in Court. You have to tell 24 the truth and if you fail to tell the truth adverse 25 consequences may derive from that.
3	5
1 (Zilda Buzack was sworn as the 2 Portuguese-English Interpreter) 3 (All proceedings were had through the 4 Portuguese-English Interpreter) 5 FARID SALEH, 6 having been first 7 duly sworn or affirmed 8 testified as follows: 9 10 DIRECT EXAMINATION BY 11 MS. DUBOWY: 12 Q MS. DUBOWY: The usual stipulations, 13 Counsel? 14 MR. WALL: Okay. 15 Q Mr. Saleh, my name is Irene Dubowy, I 16 represent Boi na Braza, Inc. in this proceeding and 17 I am here to take your deposition. 18 Have you were been deposed before? 19 A No. 20 Q Have you ever given testimony in Court? 21 A No. 22 Q So this is the first time you have been 23 involved in a proceeding like this? 24 A Yes. 25 Q I'm going to ask you a series of questions	1 Is there any reason why you can't give 2 testimony today; are you under the influence of any 3 drugs or do you have some kind of health problem 4 that would prevent you from giving truthful and 5 accurate testimony here today? 6 A No. 7 Q Between the time you found out that you 8 would be deposed and today have you spoken with 9 anybody about this proceeding? 10 A With my wife. 11 Q Did you speak with your attorney? 12 A With him, yes. 13 Q Did you review any documents in connection 14 with your deposition today? 15 A What type of documents? 16 Q Documents that were filed by the attorneys 17 in connection with this proceeding? 18 A Actually just the papers, the papers and things 19 that I have because this is the truth, this is my 20 life. 21 MR. WALL: We are not going to go into 22 work product? 23 MS. DUBOWY: No, I'm not going to, I just 24 wanted to know what documents he reviewed so if 25 there is anything he forgets I will try to -- you



6	8
1 know. 2 Q Are you aware why you are here today? 3 A Yes. 4 MS. DUBOWY: I am going to mark the 5 Petition, a five page document entitled, "Respondent 6 Boi na Braza, Inc.'s Notice of 30(b)(6) Deposition 7 of Terra Sul Corporation a/k/a Churrascaria Boi Na 8 Brasa." 9 (Exhibit P-1, Petition, marked for 10 identification.) 11 12 Q I show you a document marked P-1. Have you 13 seen this document, Mr. Salad? 14 (Pause.) 15 Q I'm going to be asking questions about the 16 document. This is basically the main subject that 17 we are going to talk about in your deposition. 18 A That's okay, you can do it, no problem at all. 19 Q I'm going to start by asking you some 20 questions about your background. 21 Were you born in Brazil? 22 A Yes. 23 Q Where in Brazil? 24 A R-I-O G-R-A-N-D-E D-O S-U-L, four words. 5 Q Can you tell me when you immigrated to the	1 the bartender to the time you had the truck driver's 2 job? 3 A At the restaurant it was from 1990 to 1994, 4 approximately, not exactly. 5 And as a truck driver from 1994 to 1995. 6 Q And after 1995 what did you do? 7 A Toward the end of 1995 we started to do things 8 toward the restaurant. 9 Q When did you open your restaurant? 10 A 1996 on a halleluiah Saturday -- on a Saturday 11 on a holiday, before Easter. 12 Q And is this restaurant that you opened 13 just before Easter 1996 the restaurant that is now 14 at 70 Adams Street? 15 A Store number 4. 16 Q Was that restaurant moved from there to 17 anywhere else during that time from 1996 to now? 18 A No, I just rent another space next door, store 19 number 3. 20 Q Can you tell us exactly what kind of 21 restaurant you operate at 70 Adams Street? 22 A What type? 23 Q Yes. 24 A Brazilian food restaurant, there is the 25 barbecue which is our main business. That's all.
7	9
1 U.S.? 2 A 1990. 3 Q Did you study here, or there? 4 A There. 5 Q So when you came to the States how old 6 were you, approximately? 7 A I'm forty-three now. 8 Q So you were -- 9 A Twenty-three. 10 Q Did you live in any other places before 11 you got to the Newark area? 12 A No. 13 Q So what jobs did you do when you first got 14 here, can you just give us like a brief description 15 of all of your jobs from 1990 when you first arrived 16 here to 1996? 17 A Two jobs, one at a Spanish restaurant when I 18 arrived here. 19 Q What did you do there? 20 A I did everything, I was a bartender, waiter, 21 bus-boy, everything. 22 Q I see. 23 What was the second one? 24 A Truck driver 5 Q Can you give us the dates of both jobs,	1 Q Do you have any other Brazilian food like 2 pizza? 3 A No, I don't serve any pizza, but I do serve 4 other Brazilian food such as T-R-O-E-E-I-R-O beans 5 and then C-A-R-R-E-T-E-I-R-O rice, which are typical 6 dishes from the region. 7 Q Was there any basic menu change from 1996 8 when you first opened the restaurant until now? 9 A The prices have changed a little but what we do 10 mainly is barbecue rodizio. 11 Q Do you have a lease, or do you own the 12 property at 70 Adams street? 13 A We lease it. 14 Q When you first opened the business, 15 Currascaria Boi na Brasa, did you have partners, or 16 did you do it by yourself? 17 A I had a partner. 18 Q Who was the partner? 19 A Paulo Klein, P-A-U-L-O K-L-E-I-N. 20 Q He is no longer in business with you? 21 A No. 22 Q What happened? 23 A He moved to Florida. 24 Q Are you still good friends with him? 25 A We have never spoken, he came here once but

Terra Sul Corp. v. Boi Na Braza Inc.  
Farid Saleh

4 (Pages 10 to 13)

10	12
<p>1 after that I never saw him again. 2 Q When you first opened the restaurant did 3 you have to obtain a restaurant license? 4 A Yes. 5 Q And you have had the license since 1996? 6 A Yes. 7 MS. DUBOWY: I would like to see the 8 license. 9 MR. WALL: We will get it for you. 10 Q When you first opened the restaurant what 11 was the official name of the restaurant? 12 A Churrascaria Boi na Brasa. 13 Q Who owned it, did you own it personally 14 with Paulo Klein, or did you own the business 15 through another company? 16 A No, it was mine. 17 Q So you didn't have a corporation that 18 owned it, you were doing the business directly as an 19 individual? 20 A No, it was our corporation, my corporation but 21 I am the president of that corporation. 22 Q So you and Paulo at that time, each of you 23 had 50 percent, or you had more of the ownership 24 there? 5 A Well, I was the one who started the business.</p>	<p>1 president. 2 I am just interested to know the name of 3 the corporation that owned the restaurant business? 4 A Yes, Churrascaria Boi na Brasa. 5 MS. DUBOWY: I'm going to show you, I will 6 mark Exhibit Petitioner's 2. 7 (Exhibit P-2, Certificate of 8 Incorporation, marked for identification.) 9 Q Have you seen this document before? 10 A Yes, I have. 11 (Exhibit P-3, Certificate of 12 Incorporation, marked for identification.) 13 Q I am going to ask you questions about P-3 14 now and then we will go back to P-2. 15 Have you seen this document? 16 A Yes, I have. 17 Q What is this document, can you tell us 18 what you think this document is? 19 A It's my restaurant, you know. 20 Q Do you see the stamp at that right corner 21 that says, "Filed March 26, 1996"? 22 A Yes. 23 Q Do you know if this document was filed? 24 MR. WALL: Are are asking him if he knows 25 whether his attorney filed it?</p>
11	13
<p>1 At that time I had money and we were 2 friends and he was working at a restaurant. 3 We came up with the idea together, but the 4 name has always come from me, I set up that name, 5 it's always been mine. 6 Q Maybe I didn't phrase my question the 7 right way. I am going to try to rephrase it. 8 In terms of the corporation, just forget 9 about the business or the name of the business, just 10 the corporation, you had shares I assume in the 11 corporation, correct? 12 A I don't know. 13 Q What was the name of the corporation when 14 you first started? 15 A Churrascaria Boi na Brasa. 16 Q So the company, when you opened the 17 company's name was Churrascaria Boi na Brasa? 18 A I didn't understand your question. 19 Q Sometimes a restaurant can have a name and 20 the entity that owns the restaurant has a different 21 name. 22 I'm asking now about the corporation, not 23 about the restaurant itself. When you first created 24 the restaurant business you told us here today that 25 there was a corporation in which you were the</p>	<p>1 MS. DUBOWY: I am not asking whether he 2 thinks his attorney filed it, I am just asking 3 whether he thinks this document was filed. 4 A I don't understand what you mean by "filed." 5 Q Do you think this reached the New Jersey 6 Department of State Division of Commercial 7 Recording? 8 MR. WALL: Counsel, how would he know? It 9 comes to his attorney's office, the attorney does 10 certain documents for him, they form a corporation. 11 You are asking him things he doesn't 12 really know. 13 He can certainly attest as to whether or 14 not he signed something or whether or not he did 15 certain acts himself, but he doesn't know what his 16 attorney did from that point forward. 17 Q So you never had any conversation with 18 anybody about whether this document was filed was 19 filed or not? 20 A No. 21 Q It was never a topic of conversation 22 whether this document was actually filed? 23 MR. WALL: One minute. 24 Did Rick tell you that the document was 25 filed and the corporation is done?</p>

Terra Sul Corp. v. Boi Na Braza Inc.  
Farid Saleh

5 (Pages 14 to 17)

14	16
<p>1 THE WITNESS: Yes.</p> <p>2 MR. WALL: On the legal documents, we</p> <p>3 would be happy to back-flow whatever documents you</p> <p>4 are interested in.</p> <p>5 Q I am new going to ask about P-2.</p> <p>6 A Which one?</p> <p>7 Q P-2.</p> <p>8 MR. WALL: P-2 is this one and P-3 is this</p> <p>9 one (indicating).</p> <p>10 A You are going to talk about which one?</p> <p>11 Q P-2.</p> <p>12 A Okay.</p> <p>13 Q Do you own Terra Sul?</p> <p>14 A Yes, I do.</p> <p>15 Q And what's your role in Terra Sul?</p> <p>16 A I am the president.</p> <p>17 Q Do you remember by name or by looking at</p> <p>18 this document, P-2, when you incorporated Terra Sul</p> <p>19 Corporation?</p> <p>20 A Terra Sul is the corporation name.</p> <p>21 The restaurant was opened in 1996, Boi na</p> <p>22 Brasa.</p> <p>23 Q But my question was, do you remember</p> <p>24 whether looking at this document P-2 or by memory</p> <p>5 when you registered, when you incorporated Terra Sul</p>	<p>1 January 1999 through a different entity, correct?</p> <p>2 A No.</p> <p>3 Q Wasn't the entity that you just told me,</p> <p>4 Churrascaria Boi na Brasa Corp. the entity that</p> <p>5 owned the restaurant between 1996 and 1999?</p> <p>6 THE INTERPRETER: Can you repeat the</p> <p>7 question, please?</p> <p>8 (The pending question was read back by the</p> <p>9 court reporter.)</p> <p>10 A The person in charge is myself, Farid Saleh,</p> <p>11 whose name is written on both papers.</p> <p>12 I just changed the name from Churrascaria</p> <p>13 Boi no Brasa to Terra Sul Corporation just to do</p> <p>14 things correctly, because I was the only person</p> <p>15 operating the restaurant.</p> <p>16 But the restaurant itself has never</p> <p>17 closed, it has been open and operating throughout</p> <p>18 the whole time.</p> <p>19 MS. DUBOWY: Off the record.</p> <p>20 (An informal discuss was had off the</p> <p>21 record.)</p> <p>22 Q Back on the record.</p> <p>23 (The record was read back by the court</p> <p>24 reporter.)</p> <p>25 Q When you say "changed the name" do you</p>
15	17
<p>1 Corporation?</p> <p>2 A Terra Sul, well, the date is right there, isn't</p> <p>3 it the date over there, the 19th of January.</p> <p>4 Q What is the year?</p> <p>5 A What is written there, 1999.</p> <p>6 Q What is the relationship between Terra Sul</p> <p>7 Corporation and your restaurant?</p> <p>8 A Okay, when we opened the corporation or in 1996</p> <p>9 when we opened the restaurant since I had a partner</p> <p>10 who was in the other corporation, when he decided to</p> <p>11 leave the company, so he left, and then after a</p> <p>12 while we put everything on paper so we removed his</p> <p>13 name so he wouldn't have anything to do with it</p> <p>14 anymore.</p> <p>15 I paid him in monthly installments, I took</p> <p>16 a while to pay him pay him off, and then when I paid</p> <p>17 him everything that I owed I signed the paper and</p> <p>18 then I started to own this company on my own.</p> <p>19 Q So Mr. Klein left the business in 1999, is</p> <p>20 that correct, around 1998, 1999?</p> <p>21 A I don't remember the exact date.</p> <p>22 Q But by the time you created Terra Sul he</p> <p>23 had left?</p> <p>24 A He had left.</p> <p>25 Q So the restaurant operated between 1996 to</p>	<p>1 mean change the name of the corporate entity, or</p> <p>2 change the name of the restaurant?</p> <p>3 A No, the restaurant has always kept the same</p> <p>4 name.</p> <p>5 Q And what name was that?</p> <p>6 A Churrascaria Boi na Brasa.</p> <p>7 Q So when you changed the name, the</p> <p>8 corporate entry from Churrascaria Boi na Brasa to</p> <p>9 Terra Sul Corporation, you mentioned some documents</p> <p>10 that you had to sign with Mr. Paulo Klein. We would</p> <p>11 be interested in seeing those documents.</p> <p>12 Were there any assignment agreements?</p> <p>13 A I don't remember, all I remember is that when</p> <p>14 he went to Florida I asked him on paper for him not</p> <p>15 to use the name Boi na Brasa.</p> <p>16 Q So the assets of Churrascaria Boi na Brasa</p> <p>17 Corp. were transferred to Terra Sul Corporation; is</p> <p>18 that happened?</p> <p>19 A What do you mean by "assets"?</p> <p>20 Q For example, the good will, the mark, the</p> <p>21 name of the restaurant.</p> <p>22 A Yes, it was.</p> <p>23 Q And were there any documents that can</p> <p>24 evidence this transfer?</p> <p>25 A There is a State card that says Churrascaria</p>

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<p>1 Corp., d/b/a. 2 MS. DUBOWY: I am going to mark P-4 for 3 identification. 4 (Exhibit P-4, Registration of Alternate 5 Name, marked for identification.) 6 Q P-4 says it was filed on February 13, 7 2007. Is that your signature? 8 A Yes. 9 Q Do you remember why, what prompted you to 10 file this document on February 13, 2007? 11 A No, I don't remember. 12 Q Do you see the date next to your name, 13 January 16, 2007? 14 A Yes. 15 Q So you probably signed the document on 16 January 16, 2007, and you don't remember what 17 prompted you to file this document? 18 A No, I don't remember. 19 Q Because Terra Sul was incorporated in 1999 20 so only in 2007 you registered the alternate name of 21 the restaurant and you have no idea why you filed 22 this document or you signed this document January 23 16, 2007? 24 A I find this strange because there is another 5 document that shows transfer Churrascaria Boi na</p>	<p>1 A When I received the letter. 2 Q And is that the letter that in your answer 3 says January 11, 2007? 4 A Yes, January 11. 5 Q Now, by reading this answer does that 6 refresh your recollection as to why you filed the 7 document, you signed this document on January 16, 8 2007, five days later? 9 A When I received the letter the first thing I 10 did was to contact my lawyer and then my attorney 11 recommended Eamon. 12 MR. WALL: Rick Montiero from this law 13 firm. 14 A At that time when I got that I didn't know what 15 was going on, I don't remember exactly if I did this 16 paper, I don't know. 17 Q Now I am going to show you P-6. 18 (Exhibit P-6, Petition to Cancel, marked 19 for identification.) 20 (Short recess.) 21 Q Back on the record. 22 We just marked P-6 which is dated January 23 29, 2007, thirteen days after you filed, Terra Sul 24 Corporation filed the registration of alternate 25 name.</p>
19	21
<p>1 Brasa in 1999 as well. 2 MS. DUBOWY: Have you provided this to us? 3 MR. WALL: We probably provided that but I 4 you've asked him two or three times and I don't 5 think he remembers why. 6 MS. DUBOWY: I am going to now mark P-5. 7 (Exhibit P-5, Terra Sul Corporation's 8 Objections and Answers to Repondent's First Set of 9 Interrogatories (Nos. -35), marked for 10 identification.) 11 Q So Terra'Sul's answers is now P-5. 12 I'm going to ask you to go to page 8. 13 Before we get into the questions 14 themselves I'm going to ask you to tell me whether 15 you understand what interrogatoriess are? 16 A Are you going to ask questions? 17 Q Yes. 18 This is a document that your attorney 19 filed, it has your signature here attesting that 20 they are all correct. 21 I'm going to ask you to read interrogatory 22 number 10. 23 A When I found out about this other -- 24 Q When you first learned about the existence 5 of my client, Boi na Braza, Inc.?</p>	<p>1 (The pending question was read back by the 2 court reporter.) 3 A What is the question? 4 Q I'm going to repeat the question. 5 So this document bears the date of January 6 29, 2007, sixteen days after you filed the 7 Registration of Alternate Name with the New Jersey 8 Department of Corporations? 9 A Yes. 10 Q Have you seen this document? 11 A This one? 12 Q P-6. 13 A Yes. 14 Q Do you know why Terra Sul Corporation 15 filed this document? 16 A "This document" is P-6? 17 Q Yes. 18 MR. WALL: Are you asking him why legally 19 was a cancellation initiated? 20 Q What prompted you to go to the lawyer? 21 A To defend me. 22 Q So the petition to cancel is something 23 that you did to protect you? 24 A To protect myself. 25 Q Do you know what Terra Sul Corporation</p>

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<p>1 alleges in this petition to cancel? 2 A Yes, I do. 3 Q What is that? 4 A That I started working before this other 5 restaurant, Boi na Brasa, with a Z, that I have 6 always been working in the market, and that I have 7 always worked in this area, and they tried to take 8 away my name, so I contacted an attorney, and that's 9 what it is. 10 Q Did you pick the name Boi na Brasa? 11 A Yes. 12 Q Can you tell us how the name came about? 13 A The first time I saw the name Boi na Brasa was 14 in my hometown, where the butchers come from, I was 15 in the company of my father and I got that name in 16 my mind. 17 And then when I came here when the idea of 18 opening a restaurant came up, we are from the south, 19 so that name came up and I said let's open a 20 restaurant with the name Boi na Brasa, with an S, 21 which is the correct way. 22 Q So there was a buther shop in your 23 hometown that had the name Boi na Brasa, with an S, 24 right? 25 A Yes.</p>	<p>1 This is with an S. 2 Q So this is first time? 3 A First time. 4 Q Do you think Boi na Brasa is a good 5 idea -- with an S--is a good name for a restaurant? 6 A Very good. 7 Q And tell us why. 8 A Because the idea that you get is -- it is hard 9 to translate. 10 Q Are you able to translate Boi na Brasa 11 into English even though your English is not that 12 great ? 13 A I think so when we are talking about with an S. 14 MR. WALL: Just to clarify, the 15 translation of Boi na Brasa, B-R-A-S-A-; is that 16 your question? 17 MS. DUBOWY: Yes. 18 A I think that the correct use of the word Brasa 19 is with an S, because S sounds like a Z when it is 20 between two vowels. 21 Q But my question is, can you translate Boi 22 na Brasa with an S for us in plain English? 23 Q Brasa with an S, or Brasa with a Z? 24 Q Brasa with an S. 25 A With an S?</p>
23	25
<p>1 Q And what is the name of your city, your 2 hometown? 3 A Santo Angelo, S-A-N-T-O A-N-G-E-L-O. 4 Q Do you go to San Paulo often? 5 A I have been in this country for eighteen years, 6 I didn't go to Brazil for fifteen years. 7 Q So the answer is "no"? 8 A No. 9 Q Since you have gone back to Brazil have 10 you gone back to San Paulo? 11 A The first airport when you go to Brazil is San 12 Paulo but I only stay in the airport. 13 Q But you don't go to the big city, travel 14 to the city? 15 A No. 16 MS. DUBOWY: I'm going to mark P-7, it's 17 from the Web site printout from Churrascaria Boi na 18 Brasa. 19 A In San Paulo? 20 Q Yes. 21 (Exhibit P-7, Website Printout from 22 Churrascaria Boi na Brasa, marked for 23 identification.) 24 Q Have you heard of this restaurant before? 25 A No.</p>	<p>1 Q Yes. 2 A With an S, yes. 3 Q Then go ahead. 4 A In Portuguese, or translate it into English? 5 Q In English. 6 A It's the cow over the charcoal. 7 Q Can you tell us how barbecue is conducted 8 in Brasil, churrascaria is cooked in Brazil? 9 A Of course. 10 Q And does that involve coal? 11 A In the old days we used wood, now it is mostly 12 coal. 13 Q Can you just tell us what is the 14 tradition, what is the Brazilian churrascaria 15 tradtion? 16 A Yes, I can explain. 17 Q Please. 18 A Our barbecue is based on the meat itself, the 19 rod, salt and fire. 20 Q Skewer? 21 A Skewer. 22 Q How is that cooked? 23 A I'm not going to tell, you it's secret. 24 (Pause.) 25 No, I'm going to tell you. In our area in</p>

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<p>1 the south of Brazil -- 2 MR. WALL: Excuse me. 3 If there is some sort of a secret here, 4 and I don't know if there is or not, interact with 5 the interpreter to tell only that which is not 6 secret. 7 A No, it is very simple, there is nothing to it. 8 In the south of Brazil, which is a 9 tradition among us which we call the gauchos-- 10 G-A-U-C-H-O-S--have a barbecue cooking tradition. 11 So usually on Sundays when the family is 12 all gathered in the house we usually make barbecue 13 for the family. 14 First we prepare the fire itself, we start 15 them with coal, we have to let it burn for a little 16 while so that the fumes come out of the coal. 17 You start to place the meat, and then 18 certain types of meat you need more time to cook 19 than others, say like pork, chicken as well. 20 And lastly you place the red meat, in 21 other words, the bloody meat, because if you place 22 the red meat first all of the other meat are going 23 to be still raw. 24 And then just eat. 5 Q How do you prepare the coal itself?</p>	<p>1 Now I'm going to mark P-8. 2 This is a printout of a San Paulo Weekend 3 Guide, particularly the Gastronomy Section of that 4 Weekend Guide, and bears a date of March 24, 2008 5 (Exhibit P-8, Printout of Weekend Guide, 6 marked for identification.) 7 Q Is there a name of the restaurant on that 8 document -- 9 A Yes. 10 Q What does it say, what is the name? 11 A "O Brzeiro." 12 Q Is that with an S, or with a Z? 13 A This one has a Z. 14 Q And this restaurant, what kind of 15 restaurant is that? 16 A I don't know, I have never been there. 17 Q If you would just read the article, can 18 you tell what kind of restaurant it is by reading 19 the types of meals that they have? 20 (Pause.)? 21 A What is the question again? 22 Q What kind of cooking, is it Italian, 23 churrascaria? 24 A It must be Italian, isn't it? 25 Q It talks about the farofa e vinagrete, are</p>
27	29
<p>1 A Well, the coal, we buy the coal bags. 2 Nowadays you buy the ready made coal bag 3 already, but in the old days we would burn the wood 4 until the wood would turn to coal. 5 Q So we are talking here wood-based coal, 6 not mineral coal, correct? 7 A No, it is wood. 8 Q So it is a vegetable-based coal? 9 A Yes. 10 Q That's a big difference from American 11 barbecue, right? 12 A It's different. 13 Q Can you explain to us what a brasziro is 14 in this process of cooking the churrascaria, what a 15 brasziro is, B-R-A-S-Z-I-R-O? 16 A The brasziro is when the coal ember is ready or 17 embers are ready for the barbecue. 18 Q For the meat of the barbecue to be placed 19 on top of the coal? 20 A Yes. 21 We place the barbecue meat when the 22 brasziro is very high, you know. 23 Q Perfect. 24 MS. DUBOWY: 25</p>	<p>1 these not churrascaria? 2 A It doesn't mention rodizio and things like 3 that. 4 Q Do you sell vinagrete in your restaurant? 5 A Farofa and vinagrete always accompany the 6 rodizio, yes. It comes with the feijoada. 7 Q And picanha fatiada, does picanha fatiada 8 sound like an Italian restaurant to you? 9 A No. 10 Q More like churrascaria, right? 11 MR. WALL: It just seems that he is a 12 native speaker of Portuguese and so on. 13 I am not sure where you are going. You 14 are asking him if something is Italian in nature; 15 are you qualifying him as a restaurateur? 16 MS. DUBOWY: Does it matter for you? 17 MR. WALL: I don't know. 18 If he knows it he will say-- 19 MS. DUBOWY: Let me inquire. 20 MR. WALL: -- whether it is similar or 21 dissimilar, whether they serve salads or not -- 22 MS. DUBOWY: I think this is the crucial 23 point of my deposition. I would like to do it as 24 quickly as possible. 25 You can ask questions later.</p>

30

1 Q How do you translate Boi na Braza, with a  
2 Z?  
3 A Boi na Brasa with a Z?  
4 Q Yes.  
5 A Braza with a Z is Braza like, you know, where  
6 do you come from? Oh, I come from Braza.  
7 Q What is Braza?  
8 A Braza is used to define terms from Brazil or  
9 things from Brazil, "Oh, I came from Braza."  
10 Q How do you spell Brazil in Portuguese?  
11 A Brazil?  
12 Q Yes.  
13 A B-A-R-- no, actually B-R-A-S-I-L.  
14 Q With an S in it?  
15 A Yes.  
16 Q And Braza, how do you spell Braza, with a  
17 Z, or with an S?  
18 A I don't get your question.  
19 Q How do you spell Braza as a name in  
20 Brazil --  
21 A B-R-A-Z-A.  
22 Q Why do you spell Braza with a Z even  
23 though you are referring to the country which in  
24 Portuguese is with an S?  
5 A What is that?

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1 Q Why do you spell Braza with a Z even  
2 though you are referring to the country which in  
3 Portuguese is with an S?  
4 A Brasa in the Portuguese language, as I  
5 explained to you before, is with an S, because  
6 that's the correct way to use it because the sound,  
7 there is a Z sound because it is in between vowels.  
8 Q I appreciate that, but my question was a  
9 little bit different.  
10 My question is: Why do you spell Braza as  
11 related to Brazil, not to coal, with a Z even though  
12 the country is spelled in Portuguese with an S?  
13 A Because it is a slang, slang that people use  
14 for things for people coming from Brazil, let's say  
15 those slippers, they come from Braza.  
16 Q So could it be that Boi na Braza, with a  
17 Z, is trying to convey the message that it is a  
18 coal, but it's a restaurant in America in English?  
19 MR. WALL: Are you asking him for an  
20 expert translation of the term, or his common  
21 understanding of the term?  
22 MS. DUBOWY: His common understanding.  
23 A Now, what is the question then, the appropriate  
24 question then?  
5 Q My question to you is, what do you think

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1 in your common understanding when you read Boi na  
2 Braza with a Z?  
3 A In my opinion I think we always have to try and  
4 write and speak in a correct way, and I give the  
5 name with an S, which is how I have always known it  
6 since I am a kid.  
7 And I try to write in the appropriate way  
8 and think the appropriate way is with an S.  
9 And the way that they spell it, with a Z,  
10 as it is written here, I think it is wrong, but to  
11 each their own.  
12 Q I show you P-9, this is a printout from a  
13 Website and it says "Churrascaria Braza."  
14 (Exhibit P-9, Printout from Website of  
15 "Churrascaria Braza", marked for identification.)  
16 Q It says "Churrascaria Braza" in Hartford,  
17 Connecticut and they spell braza with a Z; do you  
18 think they are also misspelling the word?  
19 A Yes.  
20 Q Do you think they did that on purpose, or  
21 do you think they just don't know how to spell the  
22 word?  
23 MR. WALL: You are asking him to comment  
24 on somebody else's reasoning, come on.  
25 A But it is Churrascaria Braza with a Z, right?

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1 A That's what it says.  
2 Q Braziro a word derived from braza is also  
3 with a Z?  
4 A Yes, it is.  
5 Q Do you know whether Brasil was ever  
6 written with the letter Z rather than an S in  
7 Portuguese?  
8 A Brasil in Portuguese is with an S.  
9 Q Yes, but before 1931, before the  
10 Orthographic Reform of 1931, the convention between  
11 Portugal and Brazil, do you know how our country's  
12 name was spelled in Portuguese, was that with a Z,  
13 or with an S?  
14 A I don't know because a lot of words and a lot  
15 of things have changed in our language since that  
16 time.  
17 Q Even nowadays some people in Brazil even  
18 from just reading things that old people write,  
19 sometimes we can tell that they didn't quite keep up  
20 with the way we are supposed to write nowadays,  
21 right?  
22 A No, I don't know.  
23 Q You don't know, okay, that's fair enough.  
24 MS. DUBOWY: I will now mark P-10 for  
25 identification

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1 (Exhibit P-10, Article re: Pantanal  
2 Region, marked for identification.)  
3 Q This is an article, the printout from a  
4 Website the title of the article is, "Fazenda de  
5 quase 100 anos te leva para o universo do  
6 pananeiro".  
7 Is the Panpanal region famous for its  
8 churrascaria?  
9 A No, I have never been there.  
10 Q I'm going to ask you to just take a look  
11 at page 2 of this document, paragraph 4.  
12 Can you read for us paragraph 4 out loud?  
13 A Wetland, as it is customary and in wetland  
14 region, barbecue is cooked in pits, the hot coal  
15 barbecue pits is prepared in a hole on the ground  
16 and large portions of meat barbecued on skewers  
17 which are horizontally held over the coal.  
18 MR. WALL: We will stipulate that they use  
19 a Z in this article, if that's what you went.  
20 MS. DUBOWY: You can stipulate that but  
21 that's not where I am going.  
22 MR. WALL: Okay.  
23 Q So can you explain to me how is the  
24 barbecue prepared in that region, how do they do it,  
5 based on reading this?

1 Q So you think braza with a Z may not have  
2 the same connotation outside of Newark, outside of  
3 where you live, outside the community, the Brazilian  
4 community here, with a Z?  
5 MR. WALL: The Newark Brazilian community,  
6 or the Brazilian community at-large?  
7 MS. DUBOWY: The Newark Brazilian  
8 community.  
9 A Here in Newark everybody comes here, so when  
10 we want something, an article or something from  
11 Braza, you go to the convenience stores that we  
12 have, Centro Brazil, Coisa Nossa, so they come here  
13 and buy, let's say they come here to eat at  
14 restaurants, they take advantage to buy things that  
15 are not that outside here.  
16 MR. WALL: He can certainly testify to  
17 what he knows and what he believes.  
18 I don't know if it is fair to ask him to  
19 testify as to what the whole Newark Brazilian  
20 community or the whole Hudson County Brazilian  
21 community--  
22 MS. DUBOWY: I think it is because he said  
23 he based his belief that all things Brazilian is  
24 based on his knowledge.  
25 MR. WALL: His knowledge, yes, but you are

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1 A I don't know, I have never been there.  
2 Here it says that it is made in a hole on  
3 the ground and that there are large sized pieces of  
4 meat that are barbecued and that are leaned against  
5 something, it doesn't say here what.  
6 Q Where do you put the coal, how is it  
7 cooked, how do you cook it?  
8 A On the churrascaria, that's how we cook it.  
9 Q The paragraph says that the brazeiro is  
10 prepared in a hole in the ground.  
11 How do you understand this process?  
12 A I don't understand the way in which you are  
13 actually posing your question.  
14 Q I'm asking what is your understanding of  
15 the sentence, "Brazeiro e preparado em um buraco no  
16 chao"?  
17 A That the fire is created on the ground.  
18 Q The hot coals are placed in the bottom of  
19 the pit, so you don't understand this to mean  
20 anything relating to Brazil?  
21 A But this is from Brazil, you got this thing  
22 from Brazil.  
23 This is in the State of Mato Grosso do  
4 Sul, in the wetlands, which is very far from where  
5 we are.

1 asking him to testify as to the knowledge of the  
2 community as a whole, however you define  
3 "community."  
4 MS. DUBOWY: How he is using it in the  
5 Newark community.  
6 MR. WALL: Why don't you just ask him  
7 straight out what he thinks of it.  
8 MS. DUBOWY: I will.  
9 (Record read.)  
10 A I don't know.  
11 Q The reason why you don't think brazeiro  
12 with a Z in this article is because it is in  
13 Brazil, it is because it is a different  
14 interpretation, and my question to you is, do you  
15 think maybe braza with a Z has a specific  
16 connotation here in the Newark community of the  
17 meaning of braza with a Z, in the community  
18 Brazilian here in Newark?  
19 MR. WALL: Again --  
20 MS. DUBOWY: I think he can answer the  
21 question.  
22 A People when they talk about braza, I can talk  
23 for myself, not for other people, braza is  
24 something from Brazil.  
25 But this is an article and they can just



38	40
<p>1 write the way they want, If I have a menu and I want 2 to misspell a word I can do that. 3 Q So people are free to pick the way that 4 they try to spell their words, right? 5 A If they want to misspell, that's their own 6 choice. 7 Q But you still can understand brazeiro here 8 even though they spelled it brazeiro, they put it 9 with a Z, you understand it to mean a pit full of 10 hot coal, right? 11 A The connotation here, since they explain that's 12 how it is, that's how I understand it. 13 Q And you don't understand the same when you 14 say the name of my client being Boi na Braza with a 15 Z, you don't understand that also to mean relating 16 to barbecue, churrascaria barbecue, principally 17 given the fact that it has churrascaria, that term? 18 A First of all, they set an ox inside of the fire 19 there. 20 Q They didn't place a brazeiro there, right? 21 A No, they put an ox. 22 Q So you understand Boi na Braza with a Z to 23 mean churrascaria-- 24 A When you say Boi na Braza in connection with a 5 Z--</p>	<p>1 Because they are not self-explanatory I 2 will ask you to explain to me what some of those 3 documents are. 4 MR. WALL: Are you going to identify them 5 by the Bates numbers? 6 Q When I am talking to you I will use TS and 7 I will reference the Bates number. 8 These numbers are not in order so we may 9 have to shuffle through them? 10 A Why are you using the TS? 11 Q In litigation when your counsel produces 12 documents to us the way that you keep track of what 13 documents were exchanged and what documents were 14 noticed is by this reference number, and this is the 15 reference number that your attorney created. The TS 16 is just for organizational purposes. 17 So I'm going to ask you about TS-311, it 18 has a July22, 1999 date. 19 It says it was for one hundred and eight 20 50/50 white t-shirts with one color front, one color 21 back, and for one three-by-five banner. 22 Do you remember that? 23 A Yes. 24 Q Why were those t-shirts ordered? 25 A To give out.</p>
39	41
<p>1 Q Are you asking me a question? 2 A Yes, I am. 3 You don't have to answer, you know. 4 But the right way in the Portuguese 5 language when you have an S with two vowels it 6 sounds like a Z. 7 Q Is there any exception to the rule? 8 A I don't know. 9 I learned that when I went to school and 10 then I say I saw the Boi na Brasa where it comes 11 from with an S. 12 (Short recess.) 13 Q Now we are going to switch gears a little 14 bit and talk about your advertising of Boi na Brasa, 15 I am going to give you a stack of papers, I am going 16 to represent to you that it is thirty-seven pages of 17 documents that were produced by your counsel. 18 They have Bates numbers here on the 19 bottom right corner. 20 I am mark this as P-11. 21 (Exhibit P-11, Thirty-Seven Documents 22 Stapled Together, marked for identification.) 23 Q Those were produced in response to our 4 document request for documents that reflect your 5 advertising efforts on behalf of Boi na Brasa,</p>	<p>1 Q To give out to customers of the 2 restaurant? 3 A Yes, to people, you know, I order t-shirts to 4 give to people in the summer. 5 Q To people who come to your restaurant? 6 A Yes. 7 Q What is the banner for? 8 A When we have street parties or festivals we 9 always order banners just to advertise the 10 restaurant. 11 Q And the street parties are in the summer- 12 time here, where are the street street parties? 13 A Before there used to be two street parties, 14 there was Brazilian and Portuguese days, but not 15 now, since last year things have changed because of 16 the budgets, so the Portugal street party doesn't 17 exist anymore. 18 And then I just make a party in my parking 19 lot right here. 20 Q Who is cutting the budget for the parties? 21 A The City is cutting the budgets for law 22 enforcement and for City cleaning as well. 23 Q Newark? 24 A Yes. 25 Q Then we have TS-312, and that says magnet</p>

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1 house calendar with red imprint and a three by six  
2 banner with logo.

3 That's from December 27, 1999.

4 This banner was for one of those parties  
5 you were talking about, or was this for something  
6 else?

7 A These are also from 1999 so I don't remember  
8 exactly.

9 I see here that the magnets are those  
10 magnets that you put on your refrigerator, and the  
11 calendars, New Year's calendars, are for the year to  
12 come, and also the banner is used for a New Year's  
13 party that I hold at my restaurant, which it is a  
14 tradition for Boi na Brasa to have these parties.

15 Q Where do you place the banners?

16 A Nowadays we place them in various strategic  
17 points in the City.

18 When we started to hold this party, it was  
19 actually a small party, it was actually a party  
20 among friends, but the last one that we had,  
21 actually had thirteen hundred people at the Robert  
22 Treat Hotel.

23 Q Where is that?

24 A In Newark.

5 Q And the magnet house calendars, do you

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1 give them to your clients when they leave for the  
2 New Year?

3 A No, this I give out at the restaurant when they  
4 pay. If they don't pay they don't get it.

5 Q TS-623, the sweat shirts with the logo  
6 front and back, they are also just sweat shirts that  
7 you give out?

8 A Yes, we give these at the restaurant and also  
9 in the streets to advertise, I like to use the sweat  
10 shirts because that's a shirt you wear ten times, it  
11 is much cheaper than an advertisement page in a  
12 newspaper.

13 Q When you say you give out in the streets,  
14 is that the street in front of your restaurant,  
15 where exactly is this distribution?

16 A We know a lot of people here in Newark and I  
17 know a lot of people who work in civil construction,  
18 so I see see this customer and I see he has five or  
19 six people working for him and I give it to him and  
20 he will just give them out to the others.

21 Q Now we are going to talk about TS-681, it  
22 is an invoice from from the Brazilian Voice  
23 Newspaper, and 683 is also the Brazilian Voice and  
24 so is 680, 682, 679.

25 All invoices are from the Brazilian Voice

44

1 Newspaper.

2 Do you remember placing, did you  
3 customarily place ads in the Brazilian Voice  
4 Newspaper?

5 A I used to.

6 Q Why not anymore?

7 A For personal reasons.

8 The Press is better, I think their  
9 newspaper is better, because in this town we have  
10 two Brazilian newspapers, Brazilian Voice and  
11 Brazilian Press.

12 I advertise in Brazilian Press because I  
13 see that I get more business and I like Brazilian  
14 Press.

15 Q Are there any other newspapers that you  
16 advertise in in Newark?

17 A Not on a regular basis, whenever the  
18 opportunity arises we also use Luso Americano.

19 Q That's a community based newspaper as  
20 well, right, is it geared toward the Portuguese, I  
21 assume?

22 A It is written in Portuguese and then the same  
23 thing is written in English, and it goes wherever  
24 there is a Portuguese community in the country.

25 Q Where is that, do you know, besides

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1 Newark?

2 A Wherever there is a Portuguese community  
3 throughout the United States,.

4 Q And when did you first start to advertise  
5 in this newspaper, Luso Americano?

6 A I don't remember.

7 Q Have you checked your records to get the  
8 invoices for that newspaper? Because I don't see  
9 those invoices here.

10 A You know, there are a lot of papers, I have  
11 papers here for maybe five years, but a lot of  
12 things that are old I didn't file anymore.

13 Q When was the last time you advertised in  
14 Luso Americano?

15 A Last year I think.

16 Q So you must have records for that?

17 A One can call the newspaper and get the  
18 information.

19 Q I think we are entitled to get those  
20 records from you.

21 MR. WALL: We will get it.

22 Q And so you don't remember when you started  
23 to advertise in Luso Americano?

24 A It's not like it is advertised monthly or  
25 weekly, it is just once in a while, I have a person

<p style="text-align: right;">46</p> <p>1 who actually works there who I know, his name is 2 Orlando Norberto, and he advertises for me there and 3 sometimes he doesn't even charge me. 4 Sometimes he comes up to me and says, 5 well, you know, "Would you like to have maybe an 6 article in the newspaper, " or, "would you like to 7 advertise?" 8 Q Does Orlando Norberto operate here in 9 Newark? 10 A In Elizabeth. 11 Q New Jersey? 12 A Yes. 13 Q That's like the town next to Newark, 14 right? 15 A Yes. 16 Q Brazilian Voice Newspaper, do you remember 17 when you started to advertise with them? 18 A No. 19 Q I think the first one I have here is from 20 2000, I don't have anything up to 2000 and I don't 21 have anything after -- 22 A There were papers that were submitted to you 23 that showed we were already operating before they 24 opened. 5 Q Anything you have of advertisements</p>	<p style="text-align: right;">48</p> <p>1 A It wasn't like live soccer games or anything 2 like that, they were recorded, they were videotaped, 3 but the radio used to get live games from Brazil. 4 Q So Tiolindo also had a radio station? 5 A No. 6 Q You just could hear the audio, like the 7 audio from the Internet? 8 A We would enter the site, tiolindo.com, and then 9 you can see right away with banners and stuff like 10 that you could some Brazilian news from the 11 Brazilian newspapers and things like that. 12 Q And does this site still exist? 13 A I don't think it does. 14 Q And the first one you have in the record 15 is from 2000? 16 A Yes. That's when we joined them, in 2000, I 17 don't even know the date. 18 Q Fair enough. 19 Then we have TS-713, Listas Telefonicas 20 Brazil, USA. 21 It has a statement date of June 29, 2001 22 and it says: Listas Telefonicas Brasil USA, 123 Van 23 Buren Street, Third Floor, Newark, New Jersey," 24 right? 25 A Yes.</p>
<p style="text-align: right;">47</p> <p>1 between 1996 until now is relevant so you should 2 make sure to give it to your counsel. 3 A Okay. 4 Q So Brazilian Voice is also in Newark, the 5 community, the Brazilian community; do you know the 6 distribution for this newspaper? 7 A I don't know. 8 Q And what is Tiolindo News, is that Luso 9 Americano, is that a name for it? 10 Q Tiolindo has created a Website. It used 11 to be very popular at that time so we decided to do 12 a page on that Website. 13 Q Was it popular here in Newark, in the 14 community? 15 A Yes, it was. 16 Q Why is that? 17 A Because in those days Brazil wasn't very 18 popular here, it was not very common to find it 19 on TB and stuff like that, radio stations. 20 So in order for us to watch the soccer 21 games or whatever we would do everything through 22 this. 23 Q So is it some Brazilian guy that made 24 available those games and everything in Brazilian 25 for the community here?</p>	<p style="text-align: right;">49</p> <p>1 Q Do you know the person who runs this 2 business? 3 A Yes. 4 Q Is he a friend? 5 A My friend. 6 Q And when did you start advertising with 7 him? 8 A Well, the person who created this, the person 9 owns a newspaper nowadays called Brazilian Press. 10 And they offered me this Listas and I was 11 part of it. 12 And I think it lasted only one or two 13 years because I think they had a partnership with 14 other individuals and it didn't work out. 15 Q So it started around 2001, correct? 16 A I can't tell you how long it lasted, all I know 17 is that it was created on that date. 18 Q You started advertising around that date, 19 right? 20 A I started to advertise in 1996. 21 Q I understand that, but my question is 22 whether you started to advertise with this company 23 in 2001? 24 A Yes. 25 Q You don't know for sure but you think</p>

<p style="text-align: right;">50</p> <p>1 Listas Telefonicas only lasted two years? 2 A With this, yes, but there is another directory 3 called Guya Veige Amarelo. 4 Q Is that what TS-758 is? 5 A Yes. 6 Q What is the date? 7 A 2002. 8 Q So you started advertising with Verde 9 Amarelo in 2002? 10 A Yes. 11 Q Is there anything between 1996 and 1999, 12 July 1, 1999, between 1996 when you first started 13 Churrascaria Boi na Brasa, and July 1, 1999? 14 A When we started in 1996 we didn't have much 15 money, it's not like we have a lot today, but we 16 started to advertise in a cheaper way, which is word 17 of mouth, talking about it. 18 And then in 1997 we started advertising in 19 the newspapers and then we started to do the 20 t-shirts and also the match-boxes, which people 21 don't use that much now, but we have some of them, 22 and the magnets and caps. 23 Q So the newspapers was in 1977, right? 24 A Yes. 5 Q What were the newspapers?</p>	<p style="text-align: right;">52</p> <p>1 called Coisa Nossa, which is still there to this 2 day. 3 And in those days they used to sell 4 newspapers, they used to send newspapers outside of 5 the state because in those days only Newark was 6 issuing newspapers. 7 Q The newspapers are like the Brazilian 8 newspapers that you can buy, like the traditional 9 Brazilian newspapers, you were actually able to 10 obtain them in this Brazilian Mall? 11 A Yes. 12 Q So you didn't advertise in the Global 13 Journal de Brazil or anything like that? 14 A No, you made some sort of mistake. 15 Q I did not want to make a mistake but I 16 want to make it clear for the record that the 17 newspapers you are talking about are not the same as 18 the Brazilian Press? 19 A No, no, no, I'm going to explain to you so you 20 can explain to her. 21 Let's say newspapers from Brazil, Estago de 22 San Paulo, I would place my flyers inside these 23 newspapers, and those newspapers were distributed to 24 families, people who would read them once a week and 25 they can see my name there, Boi na Brasa.</p>
<p style="text-align: right;">51</p> <p>1 A The Brazilian Press. 2 Q And that's TS-717 3 A Yes. 4 Q And you started that in 1997? 5 A Yes, when the newspaper was created. 6 Q The newspaper was created in 1997 as well? 7 A Yes. 8 Q And this is also the owner of 9 (inaudible)? 10 A That directory no longer exists, now they have 11 advertising in a newspaper that has a new directory 12 and they have already invited me to join. 13 Q When the newspaper started do you remember 14 what was the circulation of the newspaper? 15 A I don't remember. 16 Q But you think it was just for the 17 community here, right? 18 A Possibly. 19 Q In 1996, flyers and word of mouth, the 20 flyers you distributed with handouts in the street? 21 A No. 22 Q Where did you distribute them? 23 A Where we are located now at 70 Adams, that used 24 to be known as the Brazilian Shopping Mall, there 25 was a hair salon, a jewelry store, and also a store</p>	<p style="text-align: right;">53</p> <p>1 Q Did you get authorization from the 2 newspapers in Brazil in order to make them as your 3 vehicle? 4 A No, because the person would bring it to Fed-Ex 5 or whatever would put an envelope, a separate 6 envelope inside, it would go with it inside. 7 Q So it wouldn't be inside of the newspaper, 8 it would be together? 9 A No, no, no. 10 Q The distribution of the newspapers was 11 done through Fed-Ex, or U.S. Mail? 12 A I don't know how they would deliver it. 13 Q Because that would have been really 14 costly if you were Fed-Ex-ing the newspaper to 15 somebody's house, correct? 16 A I pay eighty dollars to get Chimarrao from 17 Brazil and I don't complain, I pay the price. 18 In those days there was no Internet, 19 things weren't the same. 20 Q Who ran this newspaper business? 21 A The person has left for Brazil. 22 Q Was this like a daily, or Sunday, 23 newspaper? 24 A I can't, you know, it's not going to help you 25 asking me questions this way because it wasn't</p>

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1 regular, it is not the way it worked.  
2 It was once in a while, it wasn't weekly  
3 or biweekly or anything like that, once a month  
4 sometimes.  
5 The advertisement was usually mostly here.  
6 Q The Brazilian Press, you said when they  
7 first started in 1997 you were probably one of the  
8 first customers, right?  
9 A Yes.  
10 Q And you don't know exactly when they first  
11 started, you don't know exactly what the circulation  
12 was?  
13 A I don't remember. It's easy to get, you just  
14 ask initially what was the circulation.  
15 Q Did you buy this newspaper, or did you get  
16 it for free?  
17 A For free.  
18 Q It's for free?  
19 A It's for free.  
20 Q So the newspaper's business is based on  
21 the advertisements, the local advertisements, right?  
22 A Yes.  
23 MR. WALL: I don't know if he is an  
24 expert on their business models.  
5 MS. DUBOWY: I think it's a fair question,

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1 he is a personal friend of the owner. He started  
2 advertising in the newspaper at the same time that  
3 his friend created the newspaper.  
4 He may have some knowledge and I would  
5 like to inquire about that.  
6 MR. WALL: But you are asking him to say  
7 what did the owner of the paper tell him the  
8 circulation was of the paper.  
9 MS. DUBOWY: I wasn't asking about the  
10 circulation, I was asking about the kind of  
11 advertisements and whether the types of advertising  
12 were mostly from the region.  
13 MR. WALL: Having read the paper, having  
14 looked at the ads in the paper, did he notice if the  
15 ads were local or non-local?  
16 Q As to the Brazilian Press, by reading  
17 them do you recognize that most of the advertisement  
18 is done by the Brazilian businesses here in Newark?  
19 A Mostly, yes.  
20 Q Can you think of any that were not that  
21 you just remember from your recollection?  
22 A I don't remember. All I know is that they had  
23 the same newspaper also in Florida.  
24 Q But it is not the same manager, right?  
5 Have you placed an advertisement in the

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1 Florida newspaper?  
2 A No, the newspaper owner told me that the  
3 newspaper was going out to Florida and that there  
4 are people working there already.  
5 Q When the newspaper goes to Florida, do you  
6 know when you buy an ad here in Newark for the  
7 newspaper here is that ad published in Florida, or  
8 the Florida community has their own ads?  
9 A Possibly it's the same ad in Florida as well.  
10 Q And you think that it's being, this free  
11 newspaper that is supported by advertisements only  
12 from mostly, as you say, Newark businesses which is  
13 being shipped to Florida just to be like advertising  
14 Newark businesses in Florida; can you explain that?  
15 A This is a question you have to ask of the  
16 owner.  
17 Q And Guya Veige Amarelo is something --  
18 this is not by the Brazilian Press, right?  
19 A No.  
20 Q That started in 2002?  
21 A No, it started before.  
22 (Pause.)  
23 A In 2002, yes.  
24 Q Do you still advertise with them, or no?  
25 A Up until last year, yes.

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1 Q But this year you haven't?  
2 A No, not this year.  
3 Q We are only in March, you may still do it?  
4 A Something happened, actually what happens is  
5 that when I announced in the street festivals here,  
6 I offered an exchange with her and she accepted it,  
7 so I printed out her banner and I put her banner on  
8 the street festival, and when I called her to settle  
9 things she never called me back, so I said, "Well, I  
10 did it for her but she never did it for me," I am  
11 not going to do it for her anymore.  
12 Q So you don't advertise with her anymore?  
13 A I'm not going to say that, I'll just say I  
14 stopped for a while.  
15 Q Then we have TC-440, those key-rings?  
16 A Yes.  
17 Q And do you sell them, or do you distribute  
18 them?  
19 A No, it is free.  
20 Q Where do you give them out for free?  
21 A Clients.  
22 Q To customers who come here?  
23 A Yes.  
24 Q And then we have the ski hats embroidered  
25 only, that's TS-170?

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1 A Yes.  
2 Q And those are also distributed for the  
3 customers who come here?  
4 A Yes.  
5 I can give you one if you want.  
6 Q They you have TS-1018, sign coroplast  
7 three by four with Boi na Brasa and Casa Nova logo  
8 (parking) with installation; what is that?  
9 A I'll explain it to you.  
10 At the Adams Street parking lot there is a  
11 person who helps out with the parking of the cars,  
12 so I made -- I built a little cabin for him so that  
13 he is not cold during the winter and I placed our  
14 banner outside together with Casa Nova's together,  
15 and I placed the Boi na Brasa sign, I pasted it to  
16 the little cubicle, cabin, it is still there.  
17 Q So this parking lot is for the people who  
18 go shop on Adams Street, right?  
19 A Yes.  
20 Q Is that like a city parking lot, or is  
21 that like a private parking lot?  
22 A Private.  
23 Q And then we have TS-171, February 24, 2003  
24 1,000 magnet calendars.  
25 And that's the case because you can see

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1 that's after the end of the year, is that the ones  
2 that you distribute in the New Years' party?  
3 A Sometimes it is later, you know, it might be  
4 off a little bit.  
5 Q They might have delivered it but issued  
6 this later?  
7 A No, I am talking about the magnets, the dates  
8 when the magnets were made.  
9 I was trying to make them at the beginning  
10 of the year.  
11 Q For the distribution to the customers that  
12 you have, right?  
13 A Yes.  
14 Q Then you have some more, you have  
15 twenty-one aprons with one color Boi na Brasa logo,  
16 was this also to distribute to your friends?  
17 A That's more inside the restaurant when we have  
18 a party in the house, in the restaurant, so that  
19 everybody looks the same, they all wear it.  
20 Q For the parties in the restaurant?  
21 A For everything.  
22 Q Can you explain?  
23 A If a person is actually making the barbecue he  
24 will wear the apron.  
25 Q So it is not really-- it is advertisement

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1 in the sense that your employee has the logo but it  
2 is really like a uniform?  
3 A Yes.  
4 Q Then we have one banner four by six with  
5 sponsors, two coroplast boxes (Confianza Moving),  
6 one banner four by twelve (Boi na Brasa), sixty  
7 t-shirts with one color on back and one color on  
8 front (Boi na Brasa), sixty same as above (Casa  
9 Nova), one set-up charge?  
10 A Yes.  
11 Q Please explain what that is for?  
12 A This is a festival that's, as I told you  
13 before, Portugal Day which happens in June and those  
14 coroplast boxes for moving.  
15 Q Why do they call it coroplast boxes?  
16 A Confianza (phonetic) ships boxes to Brazil, so  
17 we created, designed a box with the logo and also I  
18 placed some lighting inside so that it can light up  
19 at night, which is a way of advertising.  
20 Q And you paid for the advertising?  
21 A Because they paid me for the space.  
22 Q For your shipping something to Brazil?  
23 A No, I advertised for them because they send me  
24 a lot of customers, stuff like that.  
25 Q So coroplast boxes, I still don't

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1 understand; is it like a big box?  
2 A Do you know anything about these boxes, when  
3 you want to ship things regularly to Brazil, they  
4 charge an average of \$100 per box to ship to Brazil,  
5 used clothing and stuff like that.  
6 So they wanted to advertise this box so I  
7 designed the box.  
8 Q So this is not a Boi na Brasa  
9 advertisement then, coroplast is advertisement of  
10 Confianza?  
11 A Yes, for Confianza.  
12 MR. WALL: Your name is not on the box?  
13 THE WITNESS: My name is not on the box.  
14 I am relaxed here because I am telling the  
15 truth. That's what it is.  
16 Q That's all we need.  
17 And then we have TS-1033.  
18 Can you understand the handwriting there?  
19 A Place mats.  
20 Q And 10,000 of them?  
21 A Yes 10,000 at that time, now I do 20,000.  
22 Q That's like paper ones, right?  
23 A You place them under the plate like this with  
24 the company logo.  
25 Q So this is for the waiters when they get a

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1 new customer, he doesn't need to change the cloth,  
2 he only replaces the the paper?  
3 A He replaces everything every time a new  
4 customer sits down.  
5 Q So the place mat is just to like prevent  
6 it from like staining?  
7 A And to advertise.  
8 Q And to advertise?  
9 A Yes.  
10 Q In the restaurant?  
11 A Yes, that, and I provide it also when I hold  
12 outside parties.  
13 Q Do you hold outside parties?  
14 A Yes.  
15 Q Do you do that as a business, or is that  
16 like your personal parties?  
17 A No, what I do, here they call catering.  
18 Q When did you start doing catering?  
19 A The first one was in 1998 or 1999.  
20 Q Do you know exactly when in 1998 or 1999?  
21 A I think you have the file of papers.  
22 (Pause.)  
23 MS. DUBOWY: Let the record reflect he is  
24 talking to his attorney.  
5 MR. WALL: Are you saying I have a receipt

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1 from the hotel in Atlantic City?  
2 THE WITNESS: A small agreement.  
3 MS. DUBOWY: I would like to see that  
4 contract.  
5 THE WITNESS: I think they had sent that  
6 to you.  
7 Q Was that in the Taj Mahal?  
8 A Yes.  
9 Q Do you know someone at the Taj Mahal?  
10 A No, somebody had called, a Brazilian guy  
11 called, there was a group of Brazilians who wanted  
12 to eat there.  
13 Q A Brazilian guy called you in the  
14 restaurant and he said, "I would like you to", -- it  
15 was more like delivery?  
16 A No, we went all prepared to do a barbecue right  
17 there.  
18 Q On the site?  
19 A The difference is that they didn't want us to  
20 actually cut the meat on the table, so we had to  
21 pre-cut them and bring pieces to the table.  
22 Q But you cooked it?  
23 A There.  
24 Q Did you have to get an authorization from  
25 the hotel to do that?

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1 A No, we had no problem, we got there ready to  
2 go.  
3 Q So the person who hired you, the Brazilian  
4 guy probably had to talk to somebody in the hotel to  
5 let this happen, correct?  
6 A Possibly.  
7 Q Did you have other dealings with the hotel  
8 yourself, or was it just done through the Brazilian  
9 guy?  
10 A No, the guy was the one who organized  
11 everything for us.  
12 Q And after that you haven't done catering  
13 since then?  
14 A Not in Atlantic City.  
15 Q Did you do it anywhere else?  
16 A Yes.  
17 Q Where?  
18 A I had it in Wildwood, it was a hotel called,  
19 what do they call it? I don't remember.  
20 Q When was that?  
21 A We catered to this hotel three years in a row.  
22 Q When was the first time, was that before,  
23 or after, Taj Mahal?  
24 A After.  
25 Q How long after?

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1 A I don't remember, but it was the following year  
2 or two years after, three years after, something  
3 like that.  
4 Q Do you have any records about this as  
5 well?  
6 A These parties were paid in cash so I don't have  
7 any checks or anything.  
8 Q How many of those did you have?  
9 A There, three.  
10 Q And was it with the same guy who organized  
11 the Taj Mahal?  
12 A No.  
13 Q How did you find out about that  
14 opportunity?  
15 A Someone who used to come eat at the restaurant  
16 asked if I could do the catering for the party and I  
17 said yes.  
18 Q So it is kind of similar to the one at the  
19 Taj Mahal, someone came to your restaurant and liked  
20 your food and asked you to cater it, right?  
21 A Yes, I think so.  
22 Q Do you still keep in touch with that  
23 person?  
24 A The name of the hotel is Madrid Hotel and it  
25 has been sold a little while ago so it no longer

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1 exists.

2 The hotel owner, her name was Linda. She  
3 went to visit Brazil, Rio de Janeiro, she went to  
4 these Samba groups and she liked it very much, and  
5 that's how she contacted us.

6 Q So she went to the restaurant after she  
7 already knew of Brazil?

8 A No, one of our friends who is a regular at the  
9 restaurant ended up going to her hotel and they  
10 started to talk, he started to tell her that he knew  
11 a lot of lot of Brazilian things in Newark,  
12 Brazilian restaurants, and that there was a  
13 restaurant where they were regulars which was Boi na  
14 Brasa, and that whenever she wanted we could do  
15 something for her here.

16 Q So that was around, probably, you said the  
17 Taj Mahal was around 1998 and 1999, and then this  
18 one was probably when?

19 A I think Taj Mahal was 1997.

20 Q At first your testimony was that it was  
21 probably late 1998 to 1999.

22 A We are talking about twelve years ago, the  
23 date.

24 Q But you have the contract, right, you have  
5 some documents that has the exact date?

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1 A I have one contract, I think I gave it to my  
2 attorney, I'm not sure, this is the only evidence  
3 that we have.

4 Q But the catering is after the Taj Mahal,  
5 the Madrid Hotel catering was afterward?

6 A It was afterwards, yes.

7 Q Was there any advertisement between 1996  
8 and 1999? I'm going back but I just want to go over  
9 this. Village Press, Brazilian Voice, banners,  
10 flyers, was there anything else that you remember?

11 A Tilindo--

12 MS. DUBOWY: I think I misspoke, I said  
13 Village Voice but I meant to say Brazilian Voice.

14 Q Did you ever advertise in the Village  
15 Voice, do you know what the Village Voice is?

16 A No.

17 Q So this was everything, right, Tiolindo?

18 A There were other newspapers that we advertised  
19 in such as Brazilian Times, but not much.

20 Q These are all community newspapers?

21 A What do you mean by "community"?

22 Q The Newark Brazilian community.

23 A No, these are New York as well as other states.

24 Q And how do you know this?

25 A It is in newspapers where they each go.

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1 Q We would be interested in obtaining copies  
2 of those newspapers besides those that you have  
3 already produced.

4 A I don't have them.

5 Q You don't have any copies of those?

6 A No.

7 Q Not even invoices?

8 A No.

9 Q So it is just you telling us?

10 A Yes.

11 Q If you can tell us the names of the  
12 newspapers perhaps we can --

13 A But I have already told you the names.

14 Q Brazilian Voice, Brazilian Times,  
15 Brazilian Press and Luso Americano; were those the  
16 only four?

17 A What date?

18 Q Between July 1, 1996 and July 1, 1999?

19 A Yes.

20 Q After July 1st, 1999, was there anything  
21 besides those, was there anything else? I'm talking  
22 only about new newspapers?

23 A The Star-Ledger.

24 Q The Star-Ledger?

25 A Yes.

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1 Q What is that?

2 A Star-Ledger is a newspaper from Newark.

3 Q It's a New Jersey newspaper?

4 A Yes.

5 MR. WALL: It's one I get at my house. I  
6 was just reading it this morning.

7 A I have it right in front.

8 (Short recess.)

9 Q So it's the Star-Ledger?

10 A The daily News.

11 Q The Star-Ledger, when was the first time  
12 that you advertised with the Star-Ledger?

13 A Star-Ledger?

14 Q Yes.

15 A I don't remember the date. We have the copies  
16 here.

17 Q Sometime in 2000?

18 A Later than 2000.

19 Q How about The Daily News, when did you  
20 first start advertising in The Daily News?

21 A Daily News, this year.

22 Q 2008?

23 A Yes.

24 Q This is a continuing request: I would  
25 like everything everything produced, just like that



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<p>1 which you have produced, just keep sending them to 2 us. 3 A Comcast Cable. 4 Q Daily News 2008 and then Comcast Cable? 5 A Yes. 6 Q In? 7 A 2007. 8 Q The first time, was that the first time 9 that you advertised on cable television? 10 A U.S. TV station, first time. 11 Q What TV station did you advertise on? 12 A Global News, 596 channel on the Dish Network. 13 Q The first time you advertised in 14 television was in 2007. You did a Comcast Cable 15 placed at Global News, correct? 16 A No. 17 Q Please explain to me when you first 18 advertised on cable television? 19 A In 2000, I can't tell you exactly if it was 20 2000, I have to look at the dates on the invoice. 21 Q Do you have the invoice? 22 A I can get it for you. 23 On Dish Network, Channel 596, Global. 24 Q In what year was that? 25 A I'm sorry, I don't know exactly.</p>	<p>1 2003 when TV was created here, when the station was 2 created. 3 Q I think the first one we have is 2003. Was 4 there anything in 2007 that you advertised on cable? 5 A 2007 I did. 6 Q And where? 7 A Comcast Cable. 8 Q Is Comcast Cable different from Global 9 International? 10 A Yes. 11 Q What is Comcast Cable? 12 A Comcast Cable provides cable services. 13 Q How does your advertising reach the person 14 who is watching TV through Comcast Cable, is that a 15 channel, or is that-- 16 A Comcast Cable is a company such as Cablevision, 17 you also have Comcast Cable. 18 And then I have the channel, CNN. 19 Q But when you make an agreement with 20 Comcast Cable does your agreement include on what 21 channels on Comcast Cable the advertising will be 22 placed with? 23 A Yes. 24 Q What channels were these? 25 A CNN, Food Network, and two more I wrote down</p>
71	73
<p>1 Q Approximately? 2 A 2000. 3 Q Around 2000? 4 A Yes, when they started to have Brazilian TV 5 here. 6 Q When you say "here " you are talking about 7 where? 8 A In the country, Global, it reaches everywhere. 9 Q The advertising that was placed in 2000 10 went everywhere? 11 A Yes. 12 Q You are going to give us the first 13 invoice-- the invoice I have here for Global News, 14 it is not 2000, it's 2004. 15 Does that refresh your recollection? 16 A Yes. 17 Q So that was the first time in 2004? 18 A It could have been before. I am not sure, I 19 would have to ask someone. 20 Q All right. 21 A I can ask because I don't know how long 22 Brazilian TV has been around here. 23 Q There is one here for TV Global 24 International for 2003, do you think that's-- 25 A I can't remember exactly, I think it was 2002,</p>	<p>1 somewhere but I don't remember the name -- ESPN and 2 another one as well. 3 Q Are those advertisements on those channels 4 something that was distributed to the whole United 5 States, or only here in Newark? 6 A I am just talking about this area in general, 7 here in Newark, it goes out to Manhattan, Staten 8 Island, I can't tell you from the top of my head, I 9 would have to look at the paper. 10 Q It would be very important that you 11 provide us with the exact contracts with the dates 12 and where it was circulated and how many times. 13 The first time you did a contract with 14 Comcast Cable was in 2007, it was not before? 15 A Nothing before. 16 Q Do you remember when in 2007? 17 A If I had the paper to show you-- 18 Q Do you have it here? 19 (Pause.) 20 (An informal discussion was had off the 21 record.) 22 MS. DUBOWY: Let the record reflect that 23 the deponent brought in some documents that we 24 haven't seen before. 25 (Pause.)</p>

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1 Q I'm going to ask you the question again  
2 and perhaps you can answer the question using one of  
3 the documents?  
4 A Okay.  
5 Q So when was first time you contracted with  
6 Comcast specifically?  
7 A October 15, 2007.  
8 Q And do you have the contract with you, is  
9 the contract with the Comcast part of the documents  
10 that you have brought to the table?  
11 A Yes.  
12 MS. DUBOWY: I am going to ask for some  
13 time later on in the deposition to review the  
14 documents.  
15 I am going to go back to the documents  
16 that we have.  
17 So TV Global, you are going to give me  
18 anything that you have before 2003, the first one I  
19 have is 2003.  
20 And then we need the contract, what was  
21 the circulation, what was the publication, for lack  
22 of a better word, of TV Global in the United States.  
23 (Pause.)  
24 Q What kind of advertisements -- first of  
5 all, have you done any advertising in New York City?

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1 A Global TV reaches New York as well.  
2 Q How about publications, how about  
3 newspapers, any newspapers?  
4 A The Star-Ledger.  
5 Q The Star-Ledger?  
6 A Yes they had an article about us, Boi na Brasa.  
7 Q When you talk about advertisements in the  
8 Star-Ledger, in this newspaper, are you talking  
9 about paid advertisements, or are you talking about  
10 articles?  
11 A No, the Star-Ledger had an article about us  
12 that they did because they have a group of people  
13 who come to restaurants to eat there and write about  
14 them without our knowledge.  
15 Q So you didn't pay for the --  
16 A No.  
17 Q -- for the insertion of your name in the  
18 Star-Ledger newspaper?  
19 A No.  
20 Q And when was this newspaper article  
21 published?  
22 A One second.  
23 Last year. We also had paid  
24 advertisements in the Star-Ledger.  
25 Q Was that the first time you had paid

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1 advertisements in the Star-Ledger?  
2 A I believe so, yes.  
3 Q Do you remember when?  
4 A I couldn't tell you for sure but I have  
5 documents.  
6 Q When was the article when the Star-Ledger  
7 came to review your restaurant?  
8 A It was in 2002.  
9 Q Can you also provide that?  
10 A I think I have sent this to you.  
11 Q Do you have any invoices for 2007 that we  
12 can look?  
13 A Where?  
14 Q The Star-Ledger invoices for paid  
15 advertising in 2007?  
16 A I'm not sure, but we can get that.  
17 Q So New York, the Star-Ledger insertion,  
18 the times -- the newspapers that reach New York  
19 according to your testimony are the Star-Ledger in  
20 2007, paid advertisement, and the Star-Ledger, the  
21 Star-Ledger in 2002 is the restaurant review?  
22 A Correct.  
23 Q Anything else as far as newspapers, print  
24 advertising?  
25 A Brazilian Times, there is a newspaper in New

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1 York called Brazilian Times.  
2 Q Is that the newspaper that you referred to  
3 before?  
4 A No, you asked the question if there were any  
5 other things in New York newspapers, specifically  
6 New York, correct?  
7 Q Yes.  
8 A The Star-Ledger, 2008 also I advertised in the  
9 Daily News, and I also paid for something to be done  
10 in the Brazilian Times, but it has been a while, I  
11 don't remember.  
12 Q Is Brazilian Times, is that only  
13 circulated in New York, or does Brazilian Times  
14 also come out to Newark?  
15 A The newspaper is from New York but some of it  
16 gets here as well.  
17 Q And the Star-Ledger, is that, do you know  
18 where the headquarters of this newspaper is?  
19 A No.  
20 Q Do you think it is specifically a New York  
21 newspaper?  
22 A No, but it is a very popular newspaper.  
23 Q Where is it popular?  
24 (Pause.)  
25 MR. WALL: We don't have page 1.

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1 MS. DUBOWY: We would be interested in  
2 learning more about the Star-Ledger newspaper  
3 circulation in 2002 and whatever you have after  
4 that.  
5 MR. WALL: Off the record.  
6 (An informal discussion was had off the  
7 record.)  
8 Q As I understand it the Website for the  
9 Star-Ledger is nj.com?  
10 A Yes.  
11 Q Is that like newjersey.com?  
12 A Correct.  
13 Q So do you think that the Star-Ledger  
14 newspaper is a New Jersey newspaper?  
15 A I don't know.  
16 Q What else in New York besides Global  
17 International, Brazilian Times -- When was Brazilian  
18 Times, by the way?  
19 A Brazilian Times, I told you it's been a long  
20 time, I don't remember.  
21 Q Is it before, or after, July 1, 1999?  
22 A After.  
23 Q Well, if you have that, any kind of  
24 invoice, it would be very helpful.  
5 So Brazilian Times sometime after July 1,

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1 1999, the Star-Ledger in 2002, like a restaurant  
2 review, and then in 2007 you actually paid for  
3 advertisement in the Star-Ledger?  
4 A Correct.  
5 Q Any other print publications, print  
6 advertising?  
7 A From the top of my head right now, I don't  
8 think so.  
9 Q How about in the greater region of New  
10 York, newspapers, any print advertisement?  
11 A No.  
12 Q What did you have that was not printed?  
13 A TV such as CNN and 12-NEWS  
14 Q And the first one sometime in 2000  
15 --well, we don't know yet--  
16 Q Global International was in 2003 or maybe  
17 the year before, I am not sure.  
18 Q You are going to produce that to your  
19 counsel?  
20 A If I have it I will submit it.  
21 Q Any other cable or television ads or  
22 radio?  
23 A Television, Global, Comcast, Spotlight, CNN,  
24 Fox, Food Network.  
5 Q And that was the first time, right?

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1 A Correct.  
2 Q From October 15, 2007 to January 13, 2008?  
3 A We have more, we have to March.  
4 Q So when did you first start advertising in  
5 New York?  
6 A TV, or newspaper?  
7 Q Anything.  
8 A 2003.  
9 Q And you advertised after January 11, 2007,  
10 like this document you just handed to me now, it  
11 says October 15, 2007, you were advertising  
12 according to you, did this advertisement reach New  
13 York?  
14 A I did not understand your question. Would you  
15 repeat it?  
16 (The pending question was read back by the  
17 court reporter.)  
18 Q I will restate the question.  
19 So you advertised after January 11, 2007,  
20 in New York?  
21 A What kind of advertisement, in a newspaper?  
22 Q Anything.  
23 A Before--  
24 Q I am asking the question whether you have  
25 advertised after January 11, 2007?

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1 A Yes.  
2 Q What other activities have you done in New  
3 York, not necessarily advertising, have you done any  
4 kind of events in New York, what exactly have you  
5 done in New York, like catering?  
6 A The large Brazilian party that they have on  
7 46th Street in New York.  
8 Q What did you do there?  
9 A Gave out flyers and t-shirts as well.  
10 Q Since when have you been doing this?  
11 A I only did this for two years.  
12 Q Which years were these?  
13 A We did it in 2005 or 6, I think 2005 and 2006.  
14 Q And you haven't done it since then?  
15 A No.  
16 Q Why not?  
17 A We just decided to stop it. It wasn't  
18 profitable, it was not the kind of people --  
19 actually, because this always happens on a Sunday  
20 which is a busy day for us here, there is a lot of  
21 work here for us.  
22 So I stopped doing it and I decided  
23 instead to just take care of my restaurant here.  
24 (Short recess.)  
25 MS. DUBOWY: We are back on the record.

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1 I am going to now mark Exhibit P-12.  
2 (Exhibit P-12, Menu, marked for  
3 identification.)  
4 Q Is P-12 the current menu from Churrascaria  
5 Boi na Brasa?  
6 A No.  
7 Q How can you tell?  
8 A More options.  
9 Q Do you have an approximate date of when  
10 this menu was in effect in your restaurant?  
11 A No.  
12 Q This document was produced by you to us.  
13 When this document was produced by you to us what  
14 was the purpose, do you remember?  
15 A Of course, it is to show that we do have a  
16 restaurant, this is the logo for the restaurant and  
17 this is the address and also for the phone number  
18 which is the phone number we have been using since  
19 1996 until now, it has not been disconnected.  
20 MR. WALL: As to why it was produced, he  
21 may not be privy to why we produced it. I produced  
22 it.  
23 MS. DUBOWY: That's all right.  
24 I just wanted to ask since it's something  
5 that I didn't understand what was the purpose.

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1 Q The telephone number that you say has been  
2 the same telephone number since 1996, under whose  
3 name is that in, is that under your personal name?  
4 A My name and the company's name.  
5 Q But this particular--so one is under your  
6 name and the other one is under the company's name?  
7 A No, it is my name.  
8 Q Under your personal name, so if you go to  
9 this telephone number in the directory, it is under  
10 Farid Saleh, not Terra Sul Corporation?  
11 A Churrascaria Boi na Brasa.  
12 Q Is that in the telephone book?  
13 A I have never looked at the telephone directory.  
14 Q If you have any telephone books from 1996  
15 I would be interested in seeing them.  
16 A I don't have it.  
17 MS.DUBOWY: Then we have a document here  
18 that was produced that is very hard to read and I am  
19 going to market it P-13.  
20 (Exhibit P-13, Advertisement, marked for  
21 identification.)  
22 Q What is this?  
23 A That's the Portugal festival that I told you  
24 about.  
25 Q And when was that?

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1 A June 9 and 10.  
2 Q What year?  
3 (Pause.)  
4 A 2003.  
5 Q Now I'm going to ask you about this  
6 picture, those pictures here, they were produced by  
7 your attorney, TS-730, TS-731, TS-732.  
8 (Exhibit P-14, Three Sheets with Copies of  
9 Photos, marked for identification.)  
10  
11 Q They were produced by your counsel.  
12 Do you know what these pictures are and  
13 when they taken?  
14 A They are street festivals, it is possibly the  
15 Portugal festival.  
16 There are two festivals throughout the  
17 year here, one is the Brazil festival and the other  
18 one is the Portugal festival.  
19 Q Do you have an approximate date for this?  
20 A I have always done these festivals on a yearly  
21 basis as of 1999 and thereafter.  
22 Q You started with the Portuguese festival  
23 in 1999?  
24 A No, I started to take part in those on my own  
25 when I didn't own a restaurant yet.

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1 Q When did you start doing the Portugal  
2 festival for advertisement?  
3 A 1997.  
4 Q You just said a minute ago that you  
5 started doing those in 1999?  
6 A In 1997, but I was still very small.  
7 Q When you saw "small " what exactly do you  
8 mean?  
9 A I didn't have a stage with bands and stuff like  
10 that but a little barbecue.  
11 Q So you did it for free?  
12 A No.  
13 Q So you had like a stand?  
14 A Yes.  
15 Q And people would come and pay money and  
16 you get --  
17 A Yes.  
18 Q So it wasn't exactly advertisement?  
19 A I would place a banner.  
20 Q Did you place the banner in your stand, is  
21 that where you placed the banner?  
22 A Yes.  
23 Q To identify that that was your stand,  
24 correct?  
25 A Yes.

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1 And then I started to get the whole street  
2 for myself and stuff like that.  
3 Q What do you mean that you started to get  
4 the whole street by yourself?  
5 A I would represent both sides, I would place a  
6 stage in the middle with music, bands, like music  
7 bands, a DJ, and I would then advertise Boi na Brasa  
8 as well as other companies.  
9 Q But did you run the stage, or did someone  
10 else run the stage?  
11 A No, I would set up everything.  
12 Q And you advertised for other companies as  
13 well?  
14 A Yes, they would help out with cost, it is a  
15 costly thing.  
16 MS. DUBOWY: I'm going to now mark P-15.  
17 (Exhibit P-15, Trademark/Service Mark  
18 Application, marked for identification.)  
19 Q Would you look at the second page of this  
20 document?  
21 A Yes.  
22 Q Did you prepare this document by yourself,  
23 or did you have someone help you prepare it?  
24 A I only signed this document.  
5 Q Do you remember why you were asked to sign

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1 this document?  
2 A When we trying to register the name and find  
3 out how to register the name throughout the whole  
4 country.  
5 Q When you say "we" who are you referring  
6 to?  
7 A Myself, me and this person here who used to be  
8 a customer at the restaurant who said he used to  
9 know people, but it ended up not working out.  
10 Q This looks like Miguel F. Desousa, is that  
11 the name of the friend?  
12 A Yes.  
13 Q Miguel helped you fill out this form?  
14 A Yes.  
15 Q Did Miguel explain to you what this form  
16 was?  
17 A I told him that I had the intention of doing  
18 that kind of business and he explained to me how I  
19 could do it.  
20 Q When you say "that kind of business" what  
21 do you mean by that?  
22 A My business, my Boi na Brasa.  
23 Q So this document here was to make,  
24 register, to register the business, or was this to  
25 register the mark?

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1 MR. WALL: Off the record.  
2 (An off the record discussion was had off  
3 the record.)  
4 Q So Miguel Desousa, is he still around in  
5 this area?  
6 A I never saw him again.  
7 Q Did you pay him to help you with this?  
8 A He actually wanted to open a notery kind of  
9 office and stuff like that, and I helped him out. I  
10 paid for putting a carpet for him, but it didn't  
11 work out so he didn't stay for a long time.  
12 Q Do you remember why it didn't work out  
13 when you filed this document?  
14 A We filed it, I was thinking it would take a  
15 while, and then a couple of months, two to three  
16 months, he just disappeared, he left.  
17 Q Do you remember when you signed it?  
18 (Pause.)  
19 Q If you go down, do you see the last line  
20 on TS-763, it says 3/21/02; does that refresh your  
21 recollection as to when you signed this document?  
22 A No.  
23 Q Do you think it might have been in 2002,  
24 March 21, 2002?  
25 A It could be.

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1 Q But you don't remember?  
2 A I don't remember.  
3 Q After you signed this did you hand this to  
4 Miguel?  
5 A I give it to Miguel as well as the money order,  
6 I gave him everything together, the money order and  
7 this for him to file with the Trademark Office.  
8 A Yes.  
9 Q Do you know whether this document was  
10 actually filed with the Trademark Office?  
11 A Now I found out that it might not have been  
12 filed because I got a letter from them stating that  
13 they were the ones who have filed it, her lawyer.  
14 Q When you say "they" you are talking about  
15 Boi na Braza with a Z, right?  
16 A Yes.  
17 Q Can you tell us why, if you know, there is  
18 no record in the Trademark Office about this  
19 application?  
20 A I don't know.  
21 Q Do you fly a lot?  
22 A Me?  
23 Q Yes.  
24 A I didn't travel for fifteen years and now  
25 lately I go to Brazil three or four times, I think

Terra Sul Corp. v. Boi Na Braza Inc.  
Farid Saleh

24 (Pages 90 to 93)

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1 once earlier and then once another year, I went  
2 from here to the Caribbean about twice or so, but  
3 that's it.  
4 Q The American part of the Caribbean, or  
5 were you able to go outside of the United States?  
6 A I don't understand your question.  
7 Q When you say that you travelled to the  
8 Caribbean, did you travel to the Caribbean in the  
9 U.S. territory?  
10 A Dominican Republic.  
11 Q When was that?  
12 A Whenever I have time to travel I travel, I  
13 don't know.  
14 Q And you fly, what is the airline you  
15 generally fly, do you have a preferred airline?  
16 A Mexicana, whichever has the best flights.  
17 Q Do you work generally inside, are you  
18 generally present in the restaurant at 70 Adams  
19 Street; are you generally at the location?  
20 A In both, back and forth.  
21 Q So you work every day?  
22 A Yes. I do everything that needs to be done.  
23 Q During the years that you have been  
24 working in the restaurant have you ever heard any  
5 customers mentioning about Boi na Braza in Atlanta

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1 or in Dallas ?  
2 A No.  
3 Q Have you ever been questioned by customers  
4 whether you are related, this Boi na Braza, with  
5 the Boi na Braza in Atlanta or Dallas?  
6 A No, the first time I heard anything about Boi  
7 na Braza is when I received this letter.  
8 Q Have you ever received a report from your  
9 employees of people, their friends, that mentioned  
10 that there may exist a Boi na Braza Churrascaria in  
11 Atlanta or Dallas?  
12 A No.  
13 Q So you never heard of Boi na Braza, with a  
14 Z, Restaurant until you received the letter on  
15 January 11, 2007?  
16 A Yes.  
17 Q That was the first time?  
18 A Yes.  
19 Q And there is no report from anybody that  
20 you know that asked you about the relationship  
21 between your Churrascaria Restaurant and my client's  
22 Churrascaria restaurant?  
23 A No.  
24 Q Is there anything else you want to add to  
5 your deposition, do you want to correct anything

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1 that you said today?  
2 A No. All I want is something that is mine and my  
3 family's and that I have worked my whole life for  
4 this; that's it.  
5 Q Thank you very much for your time.  
6 I have no further questions.  
7 MR. WALL: I have no questions.  
8 (Time noted: 1:20 P.M.)  
9  
10  
11  
12  
13  
14  
15  
16  
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CERTIFICATE

I, William Sokol, Certified Shorthand  
Reporter of the State of New Jersey, License No.  
30X100030700, and Notary Public of the State of New  
Jersey, do hereby certify that the foregoing is a  
verbatim record of the testimony provided under oath  
before any Court, Referee, Commission or other body  
created by statute of the State of New Jersey.

I am not related to any parties involved in  
this action; I have no financial interest nor am I  
related to an agent of or employed by anyone with a  
financial interest in the outcome in which this  
transcript was taken; and furthermore, that I am not  
a relative or employee of any attorney or counsel  
employed by the parties hereto or financially  
interested in the action.

WILLIAM SOKOL

Certified Shorthand Reporter  
and Notary Public

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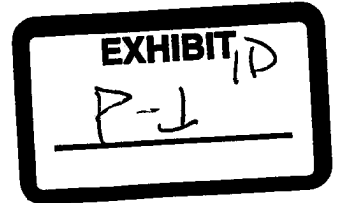
# V

**Van** 48:22  
**various** 42:16  
**vegetable** 27:8  
**vehicle** 53:3  
**Veige** 50:3 56:17  
**verbatim** 94:7

<b>Verde</b> 50:8	<b>way</b> 4:5 11:7 22:21	92:3	31:11,17 32:2,9	<b>1996</b> 7:16 8:10,13
<b>videotaped</b> 48:2	31:6 32:4,7,8,9	<b>working</b> 11:2 22:4	32:17,25 33:3,6	8:17 9:7 10:5
<b>Village</b> 67:9,13,14	33:20 35:12 38:1	22:6 43:19 56:4	33:12 34:19 36:1	12:21 14:21 15:8
67:15	38:3 39:4 40:12	87:9 90:24	36:4 37:12,15,17	15:25 16:5 47:1
<b>vinagrete</b> 28:25	50:16 53:25 54:1	<b>works</b> 46:1	38:9,15,22,25	49:20 50:11,12
29:4,5	60:19 78:18	<b>wouldn't</b> 15:13	39:6 89:15 91:14	50:14 51:19 67:7
<b>visit</b> 66:3	<b>wear</b> 43:10 59:19	53:7	<b>Zilda</b> 3:1	68:18 82:19 83:2
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<b>vowels</b> 24:20 31:7	47:10,12 78:8	44:23	<b>07702</b> 2:12	62:20 66:17,21
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	<b>Weekend</b> 28:2,4,5		1	40:18 42:3,7
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<b>waiter</b> 7:20	<b>weekly</b> 45:25 54:2	<b>X</b> 93:1	68:18 77:25	62:19,20 66:17
<b>waiters</b> 61:25	<b>went</b> 17:14 34:19	Y	78:21,25	66:21 67:8 68:18
<b>WALL</b> 2:10 3:14	39:9 63:16 66:3,3		<b>1st</b> 68:20	68:20 78:21 79:1
5:21 10:9 12:24	66:6 71:10 90:1	<b>year</b> 15:4 41:15	<b>1,000</b> 58:24	84:21,23 85:5
13:8,23 14:2,8	<b>weren't</b> 53:19	42:11 43:2 45:15	<b>1:20</b> 92:8	
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32:23 34:18,22	<b>white</b> 40:20	79:17 84:2,17	<b>10128</b> 2:6	<b>20,000</b> 61:21
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37:19 40:4 45:21	<b>Wildwood</b> 64:18	<b>yearly</b> 84:20	80:25 91:15	48:15,16 69:17
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67:8 91:24,25	32:22 33:2 38:2	74:25 75:1 76:17	20:7	88:23,24
92:2	50:16 51:19	76:18 77:1,5,6,13	<b>18</b> 93:7	<b>2003</b> 58:23 71:24
<b>wanted</b> 5:24 61:6	74:22	77:15,20 78:16	<b>19</b> 93:8	72:1,3 74:18,19
63:11 66:14	<b>words</b> 6:24 26:21	79:10 80:5,13,20	<b>19th</b> 15:3	79:16 80:8 84:4
82:24 88:8	33:14 38:4	81:3,4,5,7	<b>1931</b> 33:9,10	<b>2004</b> 71:14,17
<b>wasn't</b> 16:3 47:17	<b>work</b> 5:22 43:17	Z	<b>1977</b> 50:23	<b>2005</b> 81:13,13
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55:9 81:17 85:18	88:11,12 90:17	28:12,13 30:2,3,5	<b>1994</b> 8:3,5	<b>2007</b> 18:7,10,13,16
<b>watch</b> 47:20	90:21	30:17,22 31:1,7	<b>1995</b> 8:5,6,7	18:20,23 20:3,8
<b>watching</b> 72:14	<b>worked</b> 22:7 54:1			

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2008 1:18 28:4				
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679 43:24				
680 43:24				

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD



In the Matter of Trademark Registration No. 2,534,608  
Registered on January 29, 2002

TERRA SUL CORPORATION A/K/A CHURRASCARIA BOI NA BRASA,  Petitioner,  vs.  BOI NA BRAZA, INC.,  Respondent.	CANCELLATION NO. 92047056
---	---------------------------

RESPONDENT BOI NA BRAZA, INC.'S NOTICE OF 30(B) (6) DEPOSITION OF TERRA SUL  
CORPORATION A/K/A CHURRASCARIA BOI NA BRASA

To: Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa, by and through its attorney of record, Eamon J. Wall, Patterson & Sheridan, LLP, 595 Shrewsbury Avenue, Suite 100, Shrewsbury, New Jersey 07702.

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Respondent Boi Na Brasa, Inc. ("Boi Na Brasa"), by and through its attorneys, will take the oral deposition of the person or persons designated by Petitioner Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa ("Terra Sul") as most knowledgeable regarding the subject matter set forth in the attached Schedule A. The deposition will commence at 9:00 a.m. on Wednesday, March 12, 2008, at the office of Simoes & Montiero, 83 Polk Street, Newark, New Jersey 07105-2848 (973-344-5542) or at such other place, date and time as agreed upon by the parties. The deposition will be taken before an officer authorized to administer oaths and will be recorded by audio, stenographic and/or videographic means.

## SCHEDULE A

1. The formation and history of Terra Sul.
2. The formation and history of Churrascaria Boi Na Brasa.
3. Terra Sul's use of the names "Churrascaria Boi Na Brasa" and "Boi Na Brasa" from its inception to the present.
4. The nature and extent of Terra Sul's advertising, marketing, and promotion of the names "Churrascaria Boi Na Brasa" and "Boi Na Brasa" from the opening of any restaurant under that name to the present.
5. Terra Sul's claims set forth in its Petition to Cancel.
6. Terra Sul's alleged marks as actually used in commerce in connection with the marketing, advertising, and promotion of its business.
7. The established and likely to continue channels of trade through which Terra Sul's business bearing its alleged marks are sold, marketed, advertised and promoted in the United States.
8. The actual dollar sales of Terra Sul's business in the United States for the past ten (10) years and any projected or estimated dollar and unit sales figures for the future.
9. The annual expenditure by Terra Sul for the advertising, marketing and promotion of its business bearing its alleged marks.
10. Terra Sul's past and/or present efforts to give notice to any third person that a mark or name used by such third person was in conflict with or allegedly infringed any of Terra Sul's alleged marks.
11. When Terra Sul first became aware of Respondent Boi Na Brasa's business and trademark.

12. Any instances of actual confusion between Terra Sul's alleged marks and Respondent's marks.
13. Any instances in which a member of the public has inquired whether there is a relationship between Terra Sul or its goods or services and Boi Na Braza or its goods or services.
14. Terra Sul's response to any inquiries by the public as to the relationship between Terra Sul and Boi Na Braza.
15. Any instances in which Terra Sul has offered information to the public regarding the relationship between Terra Sul and Boi Na Braza or its goods or services.

Dated: March 6, 2008

Respectfully submitted,

THOMPSON & KNIGHT LLP

By: Remy M. Davis  
Herbert J. Hammond  
Registration No. 8858500

Remy M. Davis  
Registration No. 24055934

1700 Pacific Avenue, Suite 3300  
Dallas, Texas 75201  
214.969.1781  
214.969.1751 (facsimile)

ATTORNEYS FOR RESPONDENT  
BOI NA BRAZA, INC.

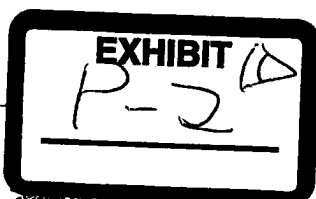


CERTIFICATE OF SERVICE

This is to certify that on March 6, 2008, a copy of the above document has been sent by U.S. First Class Mail to:

Eamon J. Wall  
Patterson & Sheridan, LLP  
595 Shrewsbury Avenue, Suite 100  
Shrewsbury, New Jersey 07702

Remy M. Davis  
Remy M. Davis



New Jersey Department of State  
Division of Commercial Recording  
Certificate of Incorporation, Profit  
(Title 14A:2-7 New Jersey Business Corporation Act  
For Use by Domestic Profit Corporations)

**FILED** REC-1993

JAN 19 1999

James A. DiIorio, Jr.  
State Treasurer

This is to Certify that, there is hereby organized a corporation under and by virtue of the above noted statute of the New Jersey Statutes.

1. Name of Corporation: **TERRA SUL CORP.**
2. The purpose for which this corporation is organized is (are) to engage in any activity within the purposes for which corporations may be organized under N.J.S.A. 14A 1-1 et seq.:
3. Registered Agent: **Farid Saleh**
4. Registered Office: **70 Adams Street  
Newark, New Jersey 07105**
5. The aggregate number of shares which the corporation shall have authority to issue is: **100 no par value**
6. If applicable, set forth the designation of each class and series of shares, the number in each, and a statement of the relative rights, preferences and limitations.
7. If applicable, set forth a statement of any authority vested in the board to divide the shares into classes or series or both and to determine or change their designation number, relative rights, preferences and limitations.
8. The first Board of Directors shall consist of **1** Directors (minimum of one).  
Name **Farid Saleh** Street Address **70 Adams Street** City **Newark** State **New Jersey** Zip  
City State Zip
9. Name and Address of Incorporator(s):  
Name **Fausto Simoes** Street Address **83 Polk St.** City **Newark** State **NJ** Zip **07105**  
City State Zip
10. The duration of the corporation is: **perpetual**
11. Other provisions:

In Witness whereof, each individual incorporator being over eighteen years of age has signed this certificate, or if the Incorporator is a corporation has caused this Certificate to be signed by its duly authorized officers this **18th** day of **January** 1999.

Signature: \_\_\_\_\_

**FAUSTO SIMOES**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

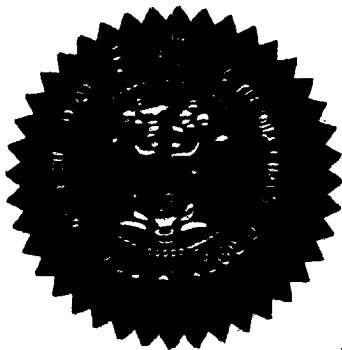
**0100769249**

Signature: \_\_\_\_\_

STATE OF NEW JERSEY  
DEPARTMENT OF TREASURY  
FILING CERTIFICATION (CERTIFIED COPY)

TERRA SUL CORP.  
0100769249

I, the Treasurer of the State of New Jersey,  
do hereby certify, that the above named business  
did file and record in this department a  
Certificate of Incorporation on January 19th, 1999  
and that the attached is a true copy of this  
document as the same is taken from and compared  
with the original(s) filed in this office and now  
remaining on file and of record.



IN TESTIMONY WHEREOF, I have  
hereunto set my hand and  
affixed my Official Seal  
at Trenton, this  
7th day of May, 2007

*Bradley Abelero*

Bradley Abelero  
State Treasurer



**New Jersey Department of State**  
**Division of Commercial Recording**  
**Certificate of Incorporation, Profit**  
 (Title 14A:2-7 New Jersey Business Corporation Act  
 For Use by Domestic Profit Corporations)

**FILED**

C-100 Rev. 7/92

MAR 28 1996

This is to Certify that, there is hereby organized a corporation under and by virtue of the above notes statute of the New Jersey Statutes.

1. Name of Corporation: CHURRASCARIA BOI NA BRASA CORP.
2. The purpose for which this corporation is organized is (are) to engage in any activity within the purposes for which corporations may be organized under NJSA 14A 1-1 et seq:
3. Registered Agent: Farid Saleh
4. Registered Office: 79 St. Francis Street, 2nd floor, Newark, New Jersey 07105
5. The aggregate number of shares which the corporation shall have authority to issue is: 100 no par value.
6. If applicable, set forth the designation of each class and series of shares, the number in each, and a statement of the relative rights, preferences and limitations.
7. If applicable, set forth a statement of any authority vested in the board to divide the shares into classes or series or both and to determine or change their designation number, relative rights, preferences and limitations.
8. The first Board of Directors shall consist of 1 Directors (minimum of one).
 

Name	Street Address	City	State	Zip
Farid Saleh	79 St. Francis Street	Newark	NJ	07105
9. Name and Address of Incorporator(s):
 

Name	Street Address	City	State	Zip
Irene Quattrochi	83 Polk Street	Newark	NJ	07105
10. The duration of the corporation is: Perpetual
11. Other provisions:

In Witness whereof, each individual incorporator being over eighteen years of age has signed this certificate, or if the Incorporator is a corporation has caused this Certificate to be signed by its duly authorized officers this 25th day of March, 1996.

Signature:

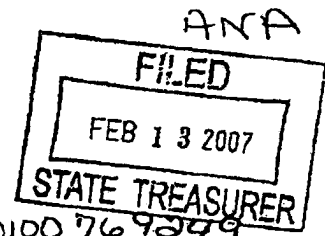
*Irene Quattrochi*

Signature:

Signature:

**FILE REQUIRED**

STATE OF NEW JERSEY  
DIVISION OF REVENUE  
REGISTRATION OF ALTERNATE N/A.



C-150G

Complete the following applicable information, and sign in the space provided. Please note that once filed, the information contained in the filed form is considered public. Refer to the instructions on page 26 for filing fees and field-by-field requirements. Remember to remit the appropriate fee amount. Use attachments if more space is required for any field.

**Check Appropriate Statute:**

- ☒ Title 14A:2-2.1 (3) New Jersey Business Corporation Act ☐ Title 42:2B-4 Limited Liability Company
- ☐ Title 15A:2-2-3 (5) New Jersey Nonprofit Corporation Act ☐ Title 42:2A-6 Limited Partnership

Pursuant to the provisions of the appropriate statute, checked above, of the New Jersey Statutes, the undersigned corporation/business entity hereby applies for the registration of an Alternate Name in New Jersey for a period of five (5) years, and for that purpose submits the following application:

1. Name of Corporation/Business: TERRA SUL CORP.
2. NJ 10-digit ID number: 0100769249
3. Set forth state of Original Incorporation/Formation: NEW JERSEY
4. Date of Incorporation/Formation: January 19, 1999
- Date of Authorization (Foreign): \_\_\_\_\_
5. Alternate Name to be used: CHURRASCARIA BOI NA BRASA
6. State the purpose or activity to be conducted using the Alternate Name: RESTAURANT
7. The Business intends to use the Alternate Name in this State.
8. The Business has not previously used the Alternate Name in this State in violation of this Statute, or, if it has, the month and year in which it commenced such use is: N/A

Signature requirements:

For Corporations  
For Limited Partnerships  
For all Other Business Types

SIGNATURE

FARID SALEH  
NAME (please type)

Chairman of the Board, President, Vice-President  
General Partner  
Authorized Representative

PRESIDENT  
TITLE

1/16/07  
DATE

THE PURPOSE OF THIS FORM IS TO SIMPLIFY THE FILING REQUIREMENTS. IT DOES NOT  
REPLACE THE NEED FOR COMPETENT LEGAL ADVICE.

5 180337  
3385658

- 25 -

Feb 12 2007 10:10  
Feb 12 2007 10:10

Fax: 9733440321

SIMDES



STATE OF NEW JERSEY  
DEPARTMENT OF TREASURY  
FILING CERTIFICATION (CERTIFIED COPY)

TERRA SUL CORP.

I, the Treasurer of the State of New Jersey,  
do hereby certify, that the above named business  
did file and record in this department the below  
listed document(s) and that the foregoing is a  
true copy of the  
Certificate Of Alternate Name  
Churrascaria Boi Na Brasa  
as the same is taken from and compared with the  
original(s) filed in this office on the date set  
forth on each instrument and now remaining on file  
and of record in my office.



IN TESTIMONY WHEREOF, I have  
hereunto set my hand and  
affixed my Official Seal  
at Trenton, this  
9th day of May, 2007

*Bradley Abelov*

Bradley Abelov  
State Treasurer

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Terra Sul Corporation a/k/a  
Churrascaria Boi Na Brasa

Petitioner

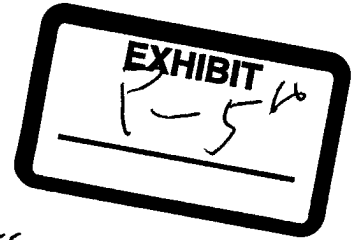
V.

Boi Na Braza, Inc.,

Registrant.

§  
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Cancellation No. 92047056



**TERRA SUL CORPORATION'S OBJECTIONS AND ANSWERS  
TO RESPONDENT'S FIRST SET OF INTERROGATORIES (NOS. 1-35)**

TO: Respondent, Boi Na Braza, Inc. by and through its attorney of record, Remy McElroy Davis, Thompson & Knight, L.L.P., 1700 Pacific Avenue, Suite 3300, Dallas, Texas 75201.

Pursuant to FED. R. CIV. P. 33 and the Trademark Trial and Appeal Board Manual of Procedure ("TBMP") Section 405.04, Petitioner Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa ("Terra Sul") responds to Respondent Boi Na Braza, Inc.'s ("Boi Na Braza's") First Set of Interrogatories (No. 1-35) as follows:

**GENERAL OBJECTIONS:**

1. Terra Sul objects to the Interrogatories to the extent that they seek to impose upon Terra Sul any obligations broader than, different from, or in addition to those obligations imposed by the Federal Rules of Civil Procedure or the Trademark Trial and Appeal Board Manual of Procedure.

2. Terra Sul objects to the Interrogatories to the extent that they are overbroad, unduly burdensome, not limited to a specific time frame, or call for information that is not relevant to the subject matter of this litigation or reasonably calculated to lead to admissible

evidence.

3. Terra Sul objects to the Interrogatories to the extent they call for the disclosure of information protected by the attorney-client privilege, the work product doctrine or any other applicable privilege. To the extent that any document which is properly subject to any such privilege is inadvertently produced in connection with these Interrogatories, such inadvertent disclosure is not to be construed as a waiver of such privilege, and such document and all copies thereof shall be returned to counsel for Terra Sul.

4. Terra Sul's discovery and investigation in connection with this opposition proceeding is continuing. As a result, Terra Sul's responses are limited to information obtained to date, and are given without prejudice to Terra Sul's right to amend or to supplement its responses after considering information obtained through further discovery or investigation.

5. Terra Sul objects to the Interrogatories to the extent they seek to require Terra Sul to identify, disclose or produce any information or document not currently in its possession, custody or control.

6. Terra Sul objects to the Interrogatories to the extent they seek information that is publicly available, unreasonably cumulative or duplicative, or that is obtainable from some other more convenient, less burdensome, or less expensive source.

7. Terra Sul objects to the Interrogatories to the extent that they seek to require Terra Sul to identify or produce any information or documents which contain the confidential or privileged information of third parties which Terra Sul is under an obligation not to disclose.

8. By responding to an Interrogatory, Terra Sul does not concede that such Interrogatory calls for information that is relevant to the subject matter of this litigation or admissible at trial or in any other proceeding in this action. Moreover, Terra Sul's response is



without prejudice to, or waiver of, any objections to any future discovery requests that Defendant may serve upon Terra Sul relating to the same or different subject matter.

9. Terra Sul objects to responding to the Interrogatories to the extent they seek information or documents are confidential and/or proprietary, in the absence of an appropriate protective order entered by the Board.

10. Terra Sul objects to the Interrogatories to the extent it seeks information that is neither relevant to the subject matter of this litigation, nor reasonably calculated to lead to the discovery of admissible evidence.

11. Terra Sul objects to the Interrogatories to the extent they are vague, overbroad or ambiguous in their content. Any response by Terra Sul to these Interrogatories shall not constitute a waiver of these objections and such response shall be limited to Terra Sul's ability to comprehend the discovery request.

12. Terra Sul's General Objections are hereby incorporated by reference into each of Terra Sul's specific objections and Responses, as set forth below.

#### **OBJECTIONS AND ANSWERS TO INTERROGATORIES (NOS. 1-35)**

##### **INTERROGATORY NO. 1.**

Describe in detail all of the facts and circumstances surrounding Petitioner's adoption of Petitioner's Mark and all the reasons for the adoption of Petitioner's Mark.

##### **OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Moreover, Petitioner specifically objects to this Interrogatory on the grounds that this Interrogatory is unduly burdensome and overly broad, particularly by requesting Petitioner to "[d]escribe in detail" its answer. Interrogatories should not require the answering party to provide a narrative account of its case. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the

cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner adopted the terms "Boi Na Brasa" and "Churrascaria Boi Na Brasa" at least as early as 1995 and later adopted them for use with its first restaurant in New Jersey in April 1996. Farid Saleh, the President of Terra Sul Corporation, conceived these terms in 1995 when he saw a butcher shop in Brazil while walking with his father. The Brazilian butcher shop was known as a "boi na brasa" shop. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 1 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 2.**

For each matter identified in Interrogatory No. 1 above, identify the person having the most knowledge of same and all documents referring or relating thereto.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, the person having the most knowledge with regard to the adoption of Petitioner's Mark is Farid Saleh, the President of Terra Sul Corporation. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 2 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 3.**

Identify all persons who had responsibility for, were consulted in connection with, or who otherwise participated in the selection of Petitioner's Mark.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring

Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, the person who had responsibility for the selection of Petitioner's Mark is Farid Saleh, the President of Terra Sul Corporation. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 3 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 4.**

Identify all persons who have responsibility for the marketing, promotion, or sale of Petitioner's goods and services under the Petitioner's Mark

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, the person who had responsibility for the "marketing, promotion, or sale" of Petitioner's goods and services is Farid Saleh, the President of Terra Sul Corporation. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 4 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 5.**

Identify when Petitioner first learned of Respondent's use of the mark BOI NA BRAZA for any goods or services and describe the details of same.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity.

Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner first learned of Respondent's use of "Boi Na Braza" through the January 11, 2007 letter sent to Farid Saleh by Thompson & Knight, LLP, on behalf of Boi Na Braza, Inc. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 5 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 6.**

Identify the dates of the first use of Petitioner's Mark, and describe the nature and circumstances of such use, including the specific goods and services on which Petitioner's Mark were first used.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner first used the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" in conjunction with its restaurant business on or about March 26, 1996. Petitioner opened its first restaurant in April 1996 and has continuously used these terms to identify its business since that time. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 6 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 7.**

Identify all goods and services previously or presently offered or sold under Petitioner's Mark by Petitioner or its licensees and the date Petitioner or its licensees began selling such goods or services under the Marks.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner first used the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" in conjunction with its restaurant business on or about March 26, 1996. Petitioner opened its first restaurant in April 1996 and has continuously used these terms to identify its business since that time. The terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" identify Petitioner's restaurants located at 70 Adams Street in Newark, New Jersey and 1 Merchant Street in Newark, New Jersey, respectively. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 7 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 8.**

Has Petitioner or any other party having the right to use Petitioner's Mark ever discontinued using Petitioner's Mark? If so, identify any such entity that has discontinued use, the dates it discontinued use of the Marks, and the reasons for discontinuing use of Petitioner's Mark.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner began use of the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" in 1996 and has continuously used these terms to identify its restaurants since that time. Petitioner has not discontinued use of these terms at any time. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 8 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 9.**

Identify the types of advertising or promotional activities, including but not limited to, catalogs, brochures, websites, publications or other media or advertising means in which Petitioner has used Petitioner's Mark. Identify a representative sample of each advertisement, promotion, manual, Internet web page, package, label, or other materials used in connection with the sale of Petitioner's Goods and Services under Petitioner's Mark. For each item, state periods of time when each item was used.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner's advertising and promotional activities included, but were not limited to, newspaper advertisements, interviews in industry journals, television advertisement and also its Internet website ([www.boinabrasa.com](http://www.boinabrasa.com)). Petitioner has been advertising its restaurants in newspapers (such as the Brazilian Press) and through industry journals since at least 1996 and Petitioner initially published its website in April 2002. Petitioner has also advertised on TV GLOBO (Dish Network Channel 596), a Portuguese language television channel. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 9 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 10.**

Describe how Petitioner first became aware of Respondent.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner first learned of Respondent through the January 11, 2007 letter sent to Farid Saleh by Thompson & Knight, LLP, on behalf of Boi Na Braza, Inc. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 10 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary. Petitioner also directs Respondent's attention to its Answer to Interrogatory No. 5.

**INTERROGATORY NO. 11.**

Describe the registration of the domain name [www.boinabrasa.com](http://www.boinabrasa.com) including all parties identified as registrants and/or administrative contacts, the relationship between those parties, the date of registration, and the restaurants identified on the website.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner registered [www.boinabrasa.com](http://www.boinabrasa.com) as a domain name on April 26, 2002. The registrant of record is Boi na Braza, Anderson DeOliveira, 1 Merchant St., Newark, New Jersey 07105. Anderson DeOliveira is a web designer for Petitioner. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 11 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 12.**

Does Petitioner have or has Petitioner ever had any business relationship with Respondent? If so, describe the dates of such relationship, the nature of the business relationship, and the employees or representatives of Petitioner and Respondent who were involved or who are knowledgeable about such relationship.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner is not aware of any prior business relationship with Respondent.

**INTERROGATORY NO. 13.**

Describe the geographic area (by country and state within the United States) of the past distribution and advertising of the goods and services sold under Petitioner's Mark, beginning with the earliest use of Petitioner's Mark and proceeding to and including the filing date of Respondent's Registration, including the date of such distribution and advertising in each geographic area.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner's two restaurants are located in Newark, New Jersey. Petitioner has advertised for "Churrascaria Boi Na Brasa" and "Boi Na Brasa" in New Jersey and New York, and also through its Internet website ([www.boinabrasa.com](http://www.boinabrasa.com)). Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 13 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 14.**

State the sales by month in dollars and units by Petitioner for all goods and services sold under Petitioner's Mark in the United States since the date of first sale in the United States and proceeding to and including the filing date of Respondent's Registration, and identify all documents referring or relating thereto.



**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner directs Respondent's attention to Petitioner's Response to Request for Production Nos. 10 and 32. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 14 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 15.**

Identify the circumstances relating to each and every attempt made by Petitioner to obtain federal or state trademark or service mark registration for Petitioner's Mark in any form.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner filed an Intent to Use application with the United States Patent and Trademark Office for trademark registration for the mark, CHURRASCARIA BOI NA BRASA CORP. on or about March 24, 2002 with regard to restaurant services.

**INTERROGATORY NO. 16.**

Identify any and all trade names, trademarks, service marks and/or other proprietary designations whether past or present, claimed or utilized by Petitioner that include any portion of "BOI NA BRASA."

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner has used the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" to identify its restaurants at least as early as 1996. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 16 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 17.**

Identify the first date of use for any and all trade names, trademarks, service marks and/or other proprietary designations listed in Response to Interrogatory No. 16.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner first used the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" in conjunction with its restaurant business on or about March 26, 1996. Petitioner opened its first restaurant in April 1996 and has continuously used these terms to identify its business since that time. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 17 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary. Petitioner also directs Respondent's attention to Petitioner's Answer to Interrogatory No. 6.

**INTERROGATORY NO. 18.**

Describe the geographic area (by country and state within the United States) of the past distribution and advertising of all trade names, trademarks, service marks and/or other proprietary designations listed in Response to Interrogatory No. 16, beginning with the earliest use of Petitioner's Mark and proceeding to and including the filing date of Respondent's Registration, including the date of such distribution and advertising in each geographic area.

#### **OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

#### **ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner's two restaurants are located in Newark, New Jersey. Petitioner has advertised for "Churrascaria Boi Na Brasa" and "Boi Na Brasa" in New Jersey and New York, and also through its Internet website ([www.boinabrasa.com](http://www.boinabrasa.com)). Petitioner has also advertised in Brazilian-themed newspapers with a national distribution. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 18 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary. Petitioner also directs Respondent's attention to Petitioner's Answer to Interrogatory No. 13.

#### **INTERROGATORY NO. 19.**

Identify each person Petitioner intends to call as a witness during the testimony period in this Cancellation Proceeding, and for each such witness describe the information such person has or might have that is relevant to this proceeding, and identify the documents upon which Petitioner intends to rely in connection with this Cancellation Proceeding.

#### **OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Moreover, Petitioner specifically objects to this Interrogatory on the grounds that it is unduly burdensome and overly broad, particularly in requesting "the information such person has or might have that is relevant to this proceeding ..." At the very least, such request can be interpreted to improperly require Petitioner to conduct unreasonable levels of research and investigation. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is still early in discovery and Applicant has not yet even produced its first round of documents.

**ANSWER:**

The following individuals are believed to have knowledge of facts relevant to one or more of the issues relevant to this Cancellation proceeding:

(a) Mr. Farid Saleh, President of Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa. Mr. Saleh is believed to be familiar with Petitioner's conception, development and marketing of the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" used to identify Petitioner's restaurants in Newark, New Jersey.

(b) Mr. Paulo Kline, is a former partner of Mr. Saleh's in ownership and operation of the first "Boi Na Brasa" restaurant in Newark, New Jersey. Mr. Kline is believed to be familiar with the conception and development of the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa." Petitioner, however, is not currently in contact with Mr. Kline and has been unable to reach or locate him.

(c) Ms. Tais Mubarak, is an employee of Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa. Ms. Mubarak is believed to be familiar with Petitioner's use of the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" with respect to Petitioner's restaurants in Newark, New Jersey.

Petitioner has yet to determine whether any of these individuals are expected to be called to testify at trial. Petitioner thereby reserves the right to supplement its Answer to this interrogatory if and when Petitioner identifies such witnesses.

**INTERROGATORY NO. 20.**

Identify the channels of trade through which each good and service under Petitioner's Mark was sold, the manner in which the goods or services under Petitioner's Mark was advertised, and identify the consumers of the goods or services under Petitioner's Mark beginning with the first use and proceeding to and including the filing date of Respondent's Registration.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Moreover, Petitioner specifically objects to this Interrogatory on the grounds that it is unduly burdensome and overly broad, particularly in requesting that Petitioner "identify the consumers of the goods or services under Petitioner's Mark ..." At the very least, such request can be interpreted to improperly require Petitioner to conduct unreasonable levels of research and investigation. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is still early in discovery and Applicant has not yet even produced its first round of documents.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner's two restaurants are located in Newark, New Jersey. Petitioner has advertised for "Churrascaria Boi Na Brasa" and "Boi Na Brasa" in New Jersey and New York, and also through its Internet website ([www.boinabrasa.com](http://www.boinabrasa.com)). Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 20 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary. Petitioner also directs Respondent's attention to Petitioner's Answers to Interrogatory Nos. 13 and 18.

**INTERROGATORY NO. 21.**

Identify all of the possible applications and uses for the goods or services sold or to be sold under Petitioner's Mark.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Moreover, Petitioner specifically objects to this Interrogatory on the grounds that it is unduly burdensome and overly broad, particularly in requesting "all of the possible applications and uses ..." At the very least, such request can be interpreted to improperly require Petitioner to conduct unreasonable levels of research and investigation. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is still early in discovery and Applicant has not yet even produced its first round of documents.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner uses the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" to identify its two restaurants in Newark, New Jersey. Any goods or services sold under these terms would be in connection to Petitioner's restaurant business. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 21 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 22.**

With respect to any business intended to be conducted but not presently conducted by Petitioner using Petitioner's Mark, identify all goods and services not already identified by Petitioner which Petitioner plans to offer in the future under Petitioner's Mark.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Moreover, Petitioner specifically objects to this Interrogatory on the grounds that it is vague and confusing, particularly in requesting "any business intended to be conducted but not presently conducted ..." At the very least, this request requires Petitioner to unreasonably speculate as to facts not yet in existence. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is still early in discovery and Applicant has not yet even produced its first round of documents.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner uses the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" to identify its two restaurants in Newark, New Jersey. Petitioner may decide in the future to open additional restaurants using the same or similar names in nearby geographic regions, but Petitioner has made no such plans at this time. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 22 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 23.**

State for each year when Petitioner's Mark has been used, advertised, or promoted, the total amount in dollars spent by or on behalf of Petitioner on advertising and promoting its goods and services under Petitioner's Mark, and its goods and services advertised and/or promoted in conjunction with Petitioner's Mark.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner directs Respondent's attention to Petitioner's Response to Request for Production No. 11. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 23 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 24.**

Identify any instance of actual confusion between Petitioner's Mark and Respondent's Marks of which Petitioner is aware. With respect to any such instance of confusion, describe the date, the circumstances leading to the confusion, and the parties allegedly confused.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner is not aware of any instances of actual confusion.

**INTERROGATORY NO. 25.**

Identify any instance in which any member of the public has inquired whether there is any relationship between Petitioner or its goods and services and Boi Na Braza, or any of its goods and services.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner is not aware of any instances of inquiries into any relationship between Petitioner and Boi Na Braza, or their respective goods and services.

**INTERROGATORY NO. 26.**

Describe in detail all of the facts and circumstances surrounding Petitioner's response to any

**ANSWER:**

The following individuals prepared, assisted in the preparation of, or provided information for the answers to these Interrogatories:

- (a) Mr. Farid Saleh, President of Terra Sul Corporation
- (b) Patterson & Sheridan, LLP, attorneys of record for Petitioner

**INTERROGATORY NO. 29.**

Has Petitioner attempted to register Petitioner's Mark or any variation thereof in any country other than the United States? If so, identify each application filed by Petitioner to register Petitioner's Mark or any variation thereof by serial number, country, filing date, and indicate its status.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner is not aware of any attempts to register Petitioner's Mark in any country other than the United States.

**INTERROGATORY NO. 30.**

If you denied any of Respondent's Admission Requests, for each Request denied, state in detail all facts that form the basis of the denial.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**



Request for Admission No. 1 – denied because Petitioner Terra Sul was not aware of Respondent's Registration until receiving a letter from Respondent's attorneys, Thompson & Knight, LLP, on January 11, 2007.

Request for Admission No. 2 – denied because Petitioner did operate its business as a Brazilian-style churrascarian restaurant prior to July 1, 1999. Petitioner has operated as a Brazilian-style churrascarian restaurant since at least April 1996.

Request for Admission No. 3 – denied because Petitioner operated as a Brazilian-style churrascarian restaurant since at least April 1996, which was prior to learning of Respondent's Registration.

Request for Admission No. 4 – denied because Petitioner has not received any inquiries as to any association between Petitioner and Respondent's respective restaurants.

Request for Admission No. 5 – denied because Petitioner has never implied any association between Petitioner and Respondent's respective restaurants.

Request for Admission No. 7 – denied because Petitioner opened its restaurant as "Boi Na Brasa" in April 1996 and has not operated a restaurant named "Adams Centre Pizzeria."

Request for Admission No. 9 – denied because Petitioner has used the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" to advertise and market its restaurants prior to July 1, 1999.

Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 30 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

#### **INTERROGATORY NO. 31.**

Identify any period of time when Petitioner's goods or services marketed and sold under its Marks were in any way different than they are currently. For any differences in the goods and services, identify the date that such change to the goods and services was made.

#### **OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Moreover, Petitioner specifically objects to this Interrogatory on the grounds that it is vague and confusing, particularly the phrase "in any way different than they are currently ..." Petitioner also objects to this Interrogatory on the grounds that it is premature since it is still early in discovery and Applicant has not yet even produced its first round of documents.

#### **ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner has used the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" since April 1996 when it opened its first restaurant in Newark, New Jersey. Since that time, Petitioner has opened a second restaurant in New Jersey in 2005 under the name "Boi Na Brasa – Bar & Grill." Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 31 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

### **INTERROGATORY NO. 32.**

Identify the basis for your claims that BOI NA BRAZA so resembles Boi Na Brasa as to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trade Mark Act.

#### **OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

#### **ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner contends that the term "Boi Na Braza" resembles "Boi Na Brasa" as to cause confusion, mistake, or deception under Section 2(d) of the Trademark Act (15 U.S.C. § 1052(d)(2)) because Petitioner, as the senior user of the term "Boi Na Brasa" in its geographic territory, believes that Respondent's use of the term "Boi Na Braza" would be confusingly similar to relevant customers in that same geographic territory due to the similarity of the parties' respective goods and services, i.e. the restaurant industry. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 32 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

### **INTERROGATORY NO. 33.**

Identify the basis of your claims that BOI NA BRAZA is merely descriptive.

#### **OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity.

Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner contends the term "Boi Na Braza" is merely descriptive because, when properly translated from Portuguese into English, "Braza" is a slang term for "things Brazilian" and the literal translation of the full phrase into English is "Ox in Brazil" or "Brazilian Ox." Either way, the term likely evidences to the relevant customer a geographic commercial impression. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 33 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 34.**

Identify the basis for your claims that BOI NA BRAZA is deceptively misdescriptive.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Subject to the foregoing objections, and without waiving the same, Petitioner contends that the term "Boi Na Braza" is deceptively misdescriptive because, when properly translated from Portuguese into English, "Braza" is a slang term for "things Brazilian" and the literal translation of the full phrase into English is "Ox in Brazil" or "Brazilian Ox." Thus, the literal translation of the phrase likely indicates to the relevant customer that the food products at Respondent's restaurant are from Brazil. Based on information and belief, Petitioner contends that none of Respondent's goods originate from Brazil, and therefore Respondent's alleged mark is deceptively misdescriptive. Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 34 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

**INTERROGATORY NO. 35.**

For each Admission Request that you did not unequivocally admit, explain the basis for your response.

**OBJECTIONS:**

Petitioner incorporates by reference the above general objections, particularly the objection to providing information that is privileged and/or covered by the work product immunity. Furthermore, this Interrogatory is improper to the extent it can be interpreted as requiring Petitioner to compile all of its evidence on this issue. Petitioner also objects to this Interrogatory on the grounds that it is premature since it is early in the cancellation proceeding, and discovery has only recently commenced.

**ANSWER:**

Request for Admission No. 1 – denied because Petitioner Terra Sul was not aware of Respondent's Registration until receiving a letter from Respondent's attorneys, Thompson & Knight, LLP, on January 11, 2007.

Request for Admission No. 2 – denied because Petitioner did operate its business as a Brazilian-style churrascarian restaurant prior to July 1, 1999. Petitioner has operated as a Brazilian-style churrascarian restaurant since at least April 1996.

Request for Admission No. 3 – denied because Petitioner operated as a Brazilian-style churrascarian restaurant since at least April 1996, which was prior to learning of Respondent's Registration.

Request for Admission No. 4 – denied because Petitioner has not received any inquiries as to any association between Petitioner and Respondent's respective restaurants.

Request for Admission No. 5 – denied because Petitioner has never implied any association between Petitioner and Respondent's respective restaurants.

Request for Admission No. 7 – denied because Petitioner opened its restaurant as "Boi Na Brasa" in April 1996 and has not operated a restaurant named "Adams Centre Pizzeria."

Request for Admission No. 9 – denied because Petitioner has used the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" to advertise and market its restaurants prior to July 1, 1999.

Subject to the above objections, additional information supporting Petitioner's response to Interrogatory No. 35 may be derived from documents produced or acquired during the discovery process, and Petitioner will duly supplement its responses, if necessary.

Date: July 3, 2007

Respectfully submitted,

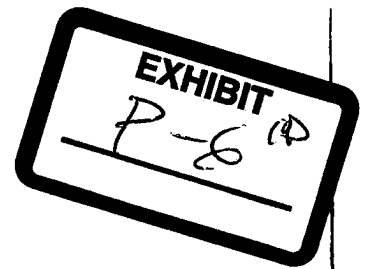
**VERIFICATION**

I declare under penalty of perjury that the responses contained in Terra Sul's Objections and Answers to Boi Na Braza, Inc.'s First Set of Interrogatories (Nos. 1-35) are true and correct.

Dated: \_\_\_\_\_

6/28/07\_\_\_\_\_  
Farid Saieh(on behalf of Terra Sul Corporation a/k/a  
Churrascaria Boi Na Brasa)

TTAB



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TERRA SUL CORPORATION a/k/a  
CHURRASCARIA BOI NA BRASA  
Petitioner

v.

BOI NA BRAZA, INC.  
Registrant

PETITION TO CANCEL

01-29-2007

U.S. Patent & TMO/TM Mail Rpt. 01. 072

COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

SIR:

Petitioner, Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa, a New Jersey corporation with a business address of 70 Adams Street, Store #4, Newark, New Jersey 07105, hereby petitions to cancel Registration No. 2,534,608, for the mark BOI NA BRAZA, registered January 29, 2002, and now owned by Registrant Boi Na Braza, Inc., according to the assignment records of the United States Patent & Trademark Office.

As grounds for cancellation, Petitioner asserts as follows:

1. For many years and since long prior to the filing date of Registrant's application and any date of first use on which Registrant can rely, Petitioner adopted and Petitioner and its related companies have continuously used, and not abandoned, the term BOI NA BRAZA as a service mark for restaurant services.
2. Petitioner's mark BOI NA BRAZA is properly translated from Portuguese to English as "Ox in embers."
3. Registration No. 2,534,608 was granted to Registrant Boi Na Braza, Inc. for the mark BOI NA BRAZA for restaurant services. The registration indicates that the mark is translated into English as "Ox in embers." That registration is now owned by Respondent Boi Na Braza, Inc.

4. Respondent's mark BOI NA BRAZA is not properly translated from Portuguese to English as "Ox in embers" because the word "Braza" exists, if at all, as a slang term for things Brazilian. Thus, Respondent's mark BOI NA BRAZA may possibly be translated as "Ox in Brazil" or perhaps "Brazilian Ox." In either case, the Brazilian connotations of the term Braza evidence a geographic commercial impression to the relevant consumer.

5. Respondent's mark BOI NA BRAZA so resembles Petitioner's previously used BOI NA BRASA as to be likely when used in connection with the services set forth in the registration, to cause confusion, mistake or deception within the meaning of Section 2(d) of the Trademark Act.

6. Respondent's mark BOI NA BRAZA, when properly translated from Portuguese to English and used in connection with the services set forth in the registration, is merely descriptive or deceptively misdescriptive of them within the meaning of Section 2(e) of the Trademark Act, primarily geographically descriptive of them within the meaning of Section 2(e) of the Trademark Act, and/or primarily geographically deceptively misdescriptive of them within the meaning of Section 2(e) of the Trademark Act.

The Commissioner is authorized to charge the Petition filing fee in the amount of \$300 and any other fees due to counsel's Deposit Account No. 20-0782/TSUL/002.

Wherefore, Petitioner prays that Registration No. 2,534,608 be cancelled in its entirety.

Respectfully submitted,

TERA SUL CORPORATION a/k/a  
CHURRASCARIA BOI NA BRASA

Date: 1/29/07

By EJ Wall  
Eamon J. Wall  
Attorney for Petitioner

PATTERSON & SHERIDAN, LLP  
595 Shrewsbury Avenue, Suite 100  
Shrewsbury, New Jersey 07702  
Telephone: 732-530-9404  
Facsimile: 732-530-9808

ESTTA Tracking number: **ESTTA141980**

Filing date: **05/23/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92047056
Party	Defendant BOI NA BRAZA, INC. BOI NA BRAZA, INC. 4025 WILLIAM D. TATE GRAPEVINE, TX 76051
Correspondence Address	BOI NA BRAZA, INC. 4025 WILLIAM D. TATE GRAPEVINE, TX 76051 UNITED STATES remy.mcelroy@tklaw.com
Submission	Answer
Filer's Name	Remy McElroy Davis
Filer's e-mail	remy.davis@tklaw.com
Signature	/Remy McElroy Davis/
Date	05/23/2007
Attachments	Answer.pdf ( 3 pages )(81752 bytes )



EXHIBIT

P-7



### Churrascaria Boi na Brasa

Tradicional casa de carnes da região Central de São Paulo, com mais de **40 anos de existência**, a **Churrascaria Boi na Brasa** foi uma das pioneiras na combinação de porções fartas com acompanhamentos, além de ser refúgio para os amantes da madrugada, pois nunca fecha antes das 5:00hrs.

Na churrascaria, as carnes são temperadas com sal refinado e molho de ervas, assadas em churrasqueira a carvão. Um dos pratos mais pedidos é o filé mignon com salada de agrião e alho torrado.

Outra sugestão é o pintado na brasa com arroz à grega e molho tártaro eo espetão à moda da casa, com carne de frango, boi, porco e arroz com batata frita. Às quartas-feiras, é a vez da feijoada completa. Mais: poucas pessoas dispensam a bisteca, o contra-filé com alho torrado ou a alcatra com arroz e batata frita

Muitos jogadores de futebol, jornalistas esportivos, músicos e artistas de TV costumam frequentar a churrascaria.

Durante a madrugada, o público é bastante diversificado, incluindo desde os que trabalham até de manhã aos que estão voltando de casas noturnas.

### - Veja nossa apresentação em vídeo:



### Saiba como chegar e venha nos conhecer!



Churrascaria Boi na Brasa:

Rua Marquês de Itá, 188 - São Paulo - SP - Fone: 3222-997

PÚBLICIDADE

EXHIBIT

P-8

**São Paulo**

30° 18° SEG  
30° 18° SEG

CINEMA GASTRONOMIA NOITE SHOWS ARTES E TEATRO PASSEIOS VIAGEM CRIANÇAS TEEN ESTILO MULHER MEU GUIA

**Guia da Semana**

MAPAS

ENDEREÇO:

EX: Rua Augusta, 12

LOCALIZAR

SERVIÇOS

RECEBA  
GRÁTIS

DIGITE SEU E-MAIL

O melhor da semana

Cinema

O melhor da semana

Cinema

Shows

Gastronomia

Artes e Teatro

Noite

Passeios

Shows

Mulher

Artes e Teatro

Estilo

Passeios

Crianças

Teen

Estilo

Crianças

Teen

Estilo

Crianças

Teen

Estilo

Crianças

Teen

CARNES

**O Brazeiro**

Rua Luiz Góes, 843  
Vila Mariana - Zona Sul - 2275-7139



&gt; FOLHA

ENCONTRE O MELH

ENCONTRE O MELH

1

Tipo de Cozinha

2

Gasto Médio

3

Região / Área

PÚBLICIDADE

ESPECIAL  
CARNAVAL

Consulte o roteiro e sa  
vão acontecer as princ  
Brasil até o fim

VEJA TAMBÉM



Receitas



Delivery



Cozinhas

Espanhola  
Francesa  
Italiana  
Japonesa  
Portuguesa  
Outras...



Recomendações

**Italiana :: Emilia**  
O restaurante Em  
homônimo, zela p

**Editorial**

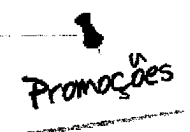
Há 36 anos, o restaurante **O Brazeiro** atende aos clientes com a mesma simplicidade e competência na cozinha. Nos dois enormes salões da casa - o menor deles, diga-se, só abre aos finais de semana - é possível encontrar mesas antigas, paliteiros e saleiros de vidro, galos desenhados nas paredes e as típicas toalhas em xadrez que compõem a decoração desde a época de sua inauguração, nos idos da década de 70.

Além do ambiente, o restaurante também preserva o bom cardápio, que foi criado por Salvador Mangini Filho e seguido por seus filhos, Paulo e Álvaro Mangini, os atuais sócios. São eles que agora guardam o segredo do famoso tempero do galetto, o carro-chefe do local. Ele vem acompanhado de farofa e vinagrete e é tão procurado que chega a provocar pequenas filas aos sábados e domingos na porta do restaurante.

Ao lado da especialidade da casa, encontram-se boas



- CADASTRE-SE
- PALM / PDA
- WAP
- CONVITE
- MAPAS



MAIS PROMOÇÕES

MAIS PROMOÇÕES

CAMISETAS

sugestões de carnes, como o espeto misto de contra-filé, lombo, calabresa com bacon, tomate e cebola, e a picanha fatiada, que chega com 450g na mesa e acompanha ainda vinagrete e farofa.

Seja o primeiro a escrever uma resenha!

8,4

AMBIENTE: 7,5

PREÇO JUSTO: 8,6

SALVAR NOTAS

### Informações

**Endereço:** Rua Luiz Góes, 843  
Vila Mariana - Zona Sul - 2275-7139

**Horário:** De segunda a domingo, das 11h à 1h

**Capacidade:** 220 pessoas

**Cartões:** Visa, Mastercard

**Estacionamento:** Possui

**Público:** Descontraído

Fãs [?] E-mail:  Senha:

Seja o primeiro fã desse lugar!

PUBLICIDADE

PUBLICIDADE



### NOTÍCIAS

- » Gatorade lança versão da bebida em caixinha
- » Restaurante promove degustação de cervejas
- » Ypióca lança primeira cachaça com malte
- » Chef ensina a preparar pratos com ingredientes brasileiros
- » Empresa vende champanhe mais caro do mundo
- » Marca lança barra de cereal com 7g de soja

+ Leia outras notícias...

### ★ ESPECIAL



Uma coisa nós, brasileiros, temos que admitir: o **churrasco argentino** é o melhor do mundo.

SAIBA +

LEIA TAMBÉM

Encravados em belos hotéis, restaurantes oferecem luxo e sabor aos clientes.

**Italiana ::** Magar  
O restaurante ital  
instalado em uma

**Natural ::** VegeT  
O VegeTao, local:  
Mariana, promete

### OPINIE

Você come salada se numa boa?

- ☐ Não, só consigo c  
se tiver um temp  
para disfarçar o g
- ☐ Sim, adoro o sabo

VOTAR

### O MELHOR DA

CINEMA

Ponto de encon



Um pes:  
orig  
enc  
ball:  
No  
única  
inú  
se p

NOITE

**Boteco com orgi**  
Um grupo de amigos, d  
freqüentando bares, ...

SHOWS

**Mito do cinema**  
Acompanhado da Orque  
Sinfonietta e do Coro S



CINEMA | GASTRONOMIA | NOITE | SHOWS | ARTES E TEATRO | PASSEIOS | VIAGEM | CRIANÇAS | TEEN | ESTILO | MULHER  
*São Paulo - Rio de Janeiro - Belo Horizonte - Salvador - Porto Alegre - Brasília - Curitiba - Flo.*

phone: (860) 882-1839  
fax: (860) 882-1843



488 Farmington, Avenue  
Hartford, CT 06105



ABOUT

MENU

DIRECTIONS

RESERVATIONS

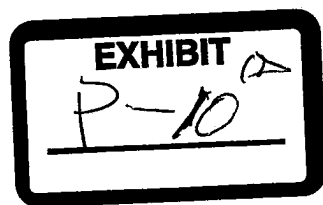
***Make a Reservation On***

Churrascaria (choo-rah-scah-REE-ah) is the name used to describe a restaurant that grilled, and Rodizio is a method of serving the different cuts of meat that originated in the early 1800's.

The concept is to serve a wide variety of different cuts of beef, pork, lamb, chicken, etc. each diner individually right at their table, thus there is not a traditional menu. The restaurant offers fixed-price continuous tableside service.

Churrascaria Braza is a dining experience like no other. Sit back, relax and enjoy the true atmosphere from Rio Grande do Sul in Southern Brazil.

Our featured meats are seasoned to perfection and slow-roasted over an open flame to retain individual flavor. The savory cuts are presented on skewers and carved tableside by our chefs, at the guests' request.



Pantanal - MS

## Fazenda de quase 100 anos te leva para o universo do pantaneiro

*A idéia do Refúgio Ecológico Caiman é valorizar a cultura e os hábitos da população local*

Christian Brandão



Crédito: Refúgio Ecológico Caiman

O Refúgio Ecológico Caiman é um dos melhores locais para se ter uma idéia geral do Pantanal. Primeiro pela localização. A propriedade está literalmente dentro das águas e das matas do Mato Grosso do Sul. Depois pela sua história. Caiman funciona como uma fazenda pecuária desde 1912, o que vai te colocar em contato direto com a cultura pantaneira.

Citado no best-seller "1.000 Lugares para Conhecer Antes de Morrer", de Patricia Schultz, a fazenda tem uma estrutura curiosa. São quatro pousadas, sendo a maior delas a antiga sede da propriedade. É um casarão cor de pêssego, em estilo mediterrâneo, que te joga no cotidiano da comunidade - hoje com 300 pessoas.

A comida servida é, por si só, uma das melhores atrações - fora claro, todo o Pantanal ao redor. É extremamente caseira e muito bem preparada. São temperos e sabores fortes e acompanha sempre banana, seja ela frita, assada ou ao natural. Peça os pratos preparados com peixe e mandioca. Eles são muito bons.

**Vida de vaqueiro**

O gado ainda é criado no local e hoje são cerca de 20 mil cabeças. Por conta da boiada, você tem oportunidade de fazer um dos passeios mais interessantes. Na chamada "comitiva de gado", o grande barato é acompanhar os peões durante toda a rotina de trabalho.

O passeio começa à noite. Um violeiro cantarola à beira da fogueira enquanto as redes são penduradas em um galpão. A sensação de dormir em uma rede é bem diferente e, para muitos, até agradável. Agora se você gosta de conforto, esqueça.

No outro dia - bem cedo - todos saem montados para reunir o gado. O som do berrante e do trote dos cavalos é constante. Para encerrar bem o dia de trabalho, já no meio da tarde, um churrasco é servido.

Seguindo o costume pantaneiro, o churrasco é feito em valas. O brazeiro é preparado em um buraco no chão. Grandes porções de carne são assadas em espetos, que ficam apoiados horizontalmente em estacas sobre o carvão.

A observação de animais é um dos fortes do refúgio - e o que a maioria das pessoas procura. Ver jacarés tão de perto dá medo. Por lá eles chamam a atividade de fufu. Mas não tem com o que se preocupar. Os guias, ou caimaners, são experientes e estão sempre acompanhados de moradores locais - que conhecem a região como ninguém.

O safári fotográfico é muito legal também. Na carroceria de um caminhão coberta com lona, todo mundo fica na expectativa de ver algum animal. E quando o guia aponta para o meio da mata, só dá para escutar os "clicks" das máquinas capturando as imagens das capivaras, tuiuiús e emas, entre vários outros bichos.

O difícil é ter de ir embora sem ter feito todos os passeios que o refúgio oferece. É necessária uma semana, no mínimo, para aproveitar as cavalgadas, passeios de canoa, de bicicleta e as saídas noturnas pra observação de animais.

Mas não saia sem experimentar um autêntico tereré, bebida gelada feita a partir de uma erva parecida com o mate. É tão típico quanto o chimarrão para o gaúcho.

**> Já foi para o Pantanal? Envie suas fotos, dicas e vídeos para nós!**

**> Saiba mais para se dar bem no Pantanal**

**> Confira outras informações sobre a cultura pantaneira**

**> Embarque em uma viagem pela Estrada Parque Pantanal**

**> Confira vídeo sobre o Pantanal**

**. :: VEJA TODAS AS MATÉRIAS, FOTOS E VÍDEOS DO  
GRUPO VIAGEM : : .**





109 Monroe Street  
Newark, NJ 07105  
Phone: 973-589-4332  
Fax: 973-589-5280

CUSTOM WEARABLES • EMBROIDERY • SILK SCREENING  
SPORTING GOODS • PREMIUMS • AD SPECIALTIES  
INCENTIVES • FULFILLMENT

# 1115

Acct	Due	Invoice	Balance
3871	07-22-99	10592	\$511.50

ACCOUNT PAST DUE  
PLEASE REMIT PAYMENT

# INVOICE

BILL TO:

Churrascaria Boi Na Brasa  
Farid  
70 Adams St. Store #4  
Newark NJ 07105

SHIP TO:

Churrascaria Boi Na Brasa  
Farid  
70 Adams St. Store #4  
Newark NJ 07105

Statement Phone: (973) 589-6069

Statement Contact: Farid

Statement Fax:

07-22-99		NET 10		Fabio	
108	108	50/50 White t'shirts w/ 1 color front/1 color back		\$4.00	\$432.00
1	1	3'X5' Banner		\$75.00	\$75.00
		<div>Paid # 1115  Fabio</div>			
				BALANCE DUE	\$511.50

PLEASE BE SURE TO RECORD OUR INVOICE NUMBER ON YOUR CHECK.  
SO THAT PAYMENT MAY BE CORRECTLY APPLIED TO YOUR ACCOUNT.  
INVOICE PAYMENTS MUST BE RECEIVED WITHIN **10 DAYS** OF THE  
INVOICE DATE. PAYMENTS RECEIVED AFTER 20 DAYS WILL BE CHARGED  
INTEREST AT A RATE OF **2% PER MONTH**

PLEASE BE SURE TO RECORD OUR INVOICE NUMBER ON YOUR CHECK.  
SO THAT PAYMENT MAY BE CORRECTLY APPLIED TO YOUR ACCOUNT.  
INVOICE PAYMENTS MUST BE RECEIVED WITHIN **10 DAYS** OF THE  
INVOICE DATE. PAYMENTS RECEIVED AFTER 20 DAYS WILL BE CHARGED  
INTEREST AT A RATE OF **2% PER MONTH**.

EXHIBIT

P-11

TS 000311



109 Monroe Street  
Newark, NJ 07105  
Phone: 973-589-4332  
Fax: 973-589-5280

CUSTOM WEARABLES • EMBROIDERY • SILK SCREENING  
SPORTING GOODS • PREMIUMS • AD SPECIALTIES  
INCENTIVES • FULFILLMENT

Acct	Date	Invoice	Balance
3871	12-27-99	10713	\$583.74

# INVOICE

**BILL TO:**

Churrascaria Boi Na Brasa  
Farid  
70 Adams St. Store #4  
Newark NJ 07105

**SHIP TO:**

Churrascaria Boi Na Brasa  
Farid  
70 Adams St. Store #4  
Newark NJ 07105

**Statement Phone:** (973) 589-6069

**Statement Contact:** Farid

**Statement Fax:**

12-22-99	UPS	NET 10	Newark	Fabio
1000	1000	MCH	Magnet house calendar w/ red imprint	\$0.45 \$450.00
			3'X6' Banner w/ logo	\$90.00 <del>\$90.00</del>
<i>Paid 11/79 Fabio \$477.00</i>				

PLEASE BE SURE TO RECORD OUR INVOICE NUMBER ON YOUR CHECK,  
SO THAT PAYMENT MAY BE CORRECTLY APPLIED TO YOUR ACCOUNT.  
INVOICE PAYMENTS MUST BE RECEIVED WITHIN 10 DAYS OF THE  
INVOICE DATE. PAYMENTS RECEIVED AFTER 20 DAYS WILL BE CHARGED  
INTEREST AT A RATE OF 2% PER MONTH.

**BALANCE DUE** **\$583.74**

TS 000312



109 Monroe Street  
Newark, NJ 07105  
Phone: 973-589-4332  
Fax: 973-589-5280

CUSTOM WEARABLES • EMBROIDERY • SILK SCREENING  
SPORTING GOODS • PREMIUMS • AD SPECIALTIES  
INCENTIVES • FULFILLMENT

Account	Order	Invoice	Balance
3871	01-14-00	10787	\$552.00

# INVOICE

**BILL TO:**

Churrascaria Boi Na Brasa  
Farid  
70 Adams St. Store #4  
Newark NJ 07105

**SHIP TO:**

Churrascaria Boi Na Brasa  
Farid  
70 Adams St. Store #4  
Newark NJ 07105

**Statement Phone:** (973) 589-6069

**Statement Contact:** Farid

**Statement Fax:**

Date		Description		Amount	
01-14-00		NET 10'			Fabio
78	78	Sweat shirts, white w/ logo front & back 8M, 30L, and 40XL		\$8.00	\$468.00
12	12	Same as above 12XXLarge		\$7.00	\$84.00
<i>Paid 11/7/99 Farid</i>					

PLEASE BE SURE TO RECORD OUR INVOICE NUMBER ON YOUR CHECK.  
SO THAT PAYMENT MAY BE CORRECTLY APPLIED TO YOUR ACCOUNT.  
INVOICE PAYMENTS MUST BE RECEIVED WITHIN 10 DAYS OF THE  
INVOICE DATE. PAYMENTS RECEIVED AFTER 20 DAYS WILL BE CHARGED  
INTEREST AT A RATE OF 2% PER MONTH.

**BALANCE DUE**

**\$552.00**

TS 000623

ARTE INICIAL INC.


Brazilian Voice Newspaper  
P.O. Box 5686  
Newark, NJ - 07105

# INVOICE

DATE	INVOICE NO.
2/2/2000	20009222

BILL TO
CHURRASCARIA BOI NA BRASA 70 Adams Street Newark, NJ 07105

TERMS	DUE DATE	REP
Due on receipt	2/2/2000	rl

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
1/4	1/4 Page Ad - Edit 471/472/473/474	4	70.00	280.00
 <b>PAST DUE PLEASE REMIT</b>				
Please make payment to Arte Inicial Inc. Favor fazer cheque nominal a Arte Inicial Inc.			<b>Total</b>	\$280.00

TS 000681

**Brazilian Voice**  
NEWSPAPER

ARTE INICIAL INC.


Brazilian Voice Newspaper  
P.O. Box 5686  
Newark, NJ - 07105

# INVOICE

DATE	INVOICE NO.
3/1/2000	20009286

BILL TO
CHURRASCARIA BOI NA BRASA 70 Adams Street Newark, NJ 07105

TERMS	DUE DATE	REP
Due on receipt	3/1/2000	rl

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
1/4	1/4 Page Ad - Edit 475/476/477/478	4	70.00	280.00
<div><p><b>PAST DUE PLEASE REMIT</b></p></div>				
Please make payment to Arte Inicial Inc. Favor fazer cheque nominal a Arte Inicial Inc.			<b>Total</b>	\$280.00

TS 000683



# Tirolindo News

207 Ivy St - Kearny - NJ 07032 - US  
Tel: (201) 987-542 • FAX: (201) 987-5542  
www.tirolindo.com / www.tionet.com / e-mail: news@tionet.com

1008

## Insertion Order Authorization

Company BOI NA BARR Date 08/10/2000  
Phone (93) 581 6067 FAX (.....) Contact Person .....  
City NEWARK ST NJ Zip Code 07105  
E-mail ..... P.O. Box .....

	% Page	% Page	Bottom Page	% Page	% Page	1/8 Page Lateral	Business Directory
	\$175.00	\$175.00	\$100.00 10 %	\$90.00 10 %	\$100.00 2 % x	\$45.00 3 %	\$50.00 monthly
AD 1	AD 2	AD 3	AD 4	AD 5	AD 6	AD 7	AD 8

☐ Color ☐ Art supplied by the customer  
☐ B & W ☐ Art made by the Dept. of Marketing

AD#	Start	End	Unit Price	Total
A4	01	52	-	1,500.00

Total \$ 1,500.00

☐ Check ☐ Credit Card ☐ Other  
5% EXP DATE .....  
Date .....

Signature Authorization: ..... Date 08/10/2000  
Observations: 50% 750.00

Tirolindo2000A1



750

250

300

June 10

September 12

130

100

29 September 1944

and full



750 —  
250 — June 10  
300 — September 12

1300  
200 29 September 1944.

and full

**Brazilian Voice**  
NEWSPAPER

ARTE INICIAL INC.

Brazilian Voice Newspaper  
P.O. Box 5686  
Newark, NJ - 07105

# INVOICE

DATE	INVOICE NO.
4/1/2000	20009384

<b>BILL TO</b>
CHURRASCARIA BOI NA BRASA 70 Adams Street Newark, NJ 07105

TERMS	DUE DATE	REP
Due on receipt	4/1/2000	rl

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
1/4	1/4 Page Ad - Edit 479/480/481/482/483	5	70.00	350.00
<div><i>Paford</i></div> <div><b>PAST DUE PLEASE REMIT</b></div>				
Please make payment to Arte Inicial Inc. Favor fazer cheque nominal a Arte Inicial Inc.				<b>Total</b> 3350.00

TS 000680



ARTE INICIAL INC.  
Brazilian Voice Newspaper  
P.O. Box 5686  
Newark, NJ - 07105

# INVOICE

DATE	INVOICE NO.
5/1/2000	20009490

<b>BILL TO</b>
CHURRASCARIA BOI NA BRASA 70 Adams Street Newark, NJ 07105

		TERMS	DUE DATE	REP
		Due on receipt	5/1/2000	rl
ITEM	DESCRIPTION	QTY	RATE	AMOUNT
1/4	1/4 Page Ad - Edit 484/485/486/487  <i>Paper Two</i>	4	70.00	280.00
Please make payment to Arte Inicial Inc. Favor fazer cheque nominal a Arte Inicial Inc.			<b>Total</b>	<b>\$280.00</b>

TS 000682



ARTE INICIAL INC.

Brazilian Voice Newspaper

P.O. Box 5686

Newark, NJ - 07105

# INVOICE

DATE	INVOICE NO.
6/29/2000	20009740

BILL TO
CHURRASCARIA BOI NA BRASA 70 Adams Street Newark, NJ 07105

TERMS	DUE DATE	REP
Due on receipt	6/29/2000	rl

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
1/4	1/4 Page Ad - Edit 493/494/495/496	4	70.00	280.00
Full	Full Page Ad - Dia de Portugal Edi 493	1	240.00	240.00
Please make payment to Arte Inicial Inc. Favor fazer cheque nominal a Arte Inicial Inc.			<b>Total</b>	<b>\$520.00</b>

TS 000679

..0..  
2,200.00 +  
1,350.00 -  
900.00 -  
003.....  
-50.00 \*

Listas Telefonicas Brasil USA  
 123 Van Buren Street  
 3rd Floor  
 Newark, NJ 07105-2700

# Statement

Statement Date:  
 Jun 29, 2001

Voice: 973-344-7682  
 Fax: 973-344-7683

Customer Account ID:  
 BOI NA BRASA

Account Of: CHURRASCARIA BOI NA BRASA  
 70 ADAMS STREET  
 NEWARK, NJ 07105

Amount Enclosed  
 \$ \_\_\_\_\_

Date	Due Date	Invoice No.	Paid	Description	Amount	Balance
4/8/01	4/8/01	109			2,200.00	2,200.00
<p>EN 02.10.01            Pago 1.000,00 (Personal Services)            OUEAB 01/9            Prover 3500 No da 10/24/01            SETA 16.11</p>						
Total						2,200.00

0-30	31-60	61-90	Over 90 days
0.00	0.00	2,200.00	0.00

TS 000713



# Listas telefônicas Brazil - Usa

As Páginas Amarelas que o Brazil - USA

123 Van buren St - Newark, NJ 07105

NO 00587 Tel: (973) 344 - 7682 \* Fax: (973) 344 - 7683

Insertion Order: \_\_\_\_\_

Cód. Cliente: \_\_\_\_\_

Advertiser: CHURRASCARIA BOI NA BRASA

Address: 40 ADAMS STREET Date: 03-12-2001

City: NEWARK St: NJ Zip: 07105 Contact: \_\_\_\_\_

Tel: (973) 589 60 69 Fax: ( ) \_\_\_\_\_ Email: \_\_\_\_\_  
589 69 84

CODE	TITLE	DESCRIPTION	SPACE	PRICE
	CHURRASCARIA	Lº. PÓVICA NO TRILHO DO ESTADO NJ	FULL PAGE	1869,00
		PODIUMAGE & CORES NO ENLACE		
		OWIEC DA EXIDÃO MA - NJ FRENTE		1600,00
	2		DOCL.	1089,00
	RESTAURANTE		3/4H	1089,00

SALES MAN

Rodrigues

Total \$ 2020,00

Obs: \_\_\_\_\_

☐ Check. #.....

☐ Cash

☐ Credit Card

Receive by: \_\_\_\_\_ Date: \_\_\_\_\_

Advertising ordered by: \_\_\_\_\_

Signature: [Signature] Date: 03-12-2001

REQUIRE THE ABOVE INFORMATION, AS PER EXPRESSED TERMS

See: The advertiser agrees to hold harmless the publisher for the publication of the submitted copy. Credit for error is allowed on the first only. Advertiser assumes all liability for statements and agrees to indemnify publisher for any claims made in connection therewith. All art work, layout, design and articles remain the sole property of the publisher. Reproduction of material in part or in whole without written permission is strictly prohibited. Balance due 30 days after publication date. All past due accounts are subjected to a finance charge of 1.75% per month. This is an annual rate of 21%.

TS 000714

**Listas Telefonicas Brasil USA****Statement**

123 Van Buren Street  
3rd Floor  
Newark, NJ 07105-2700

Statement Date:  
Dec 14, 2001

Voice: 973-344-7682  
Fax: 973-344-7683

Customer Account ID:  
BOI NA BRASA

Account Of: CHURRASCARIA BOI NA BRASA  
70 ADAMS STREET  
NEWARK, NJ 07103

Attn:

Amount Enclosed  
\$ \_\_\_\_\_

Date	Due Date	Invoice No.	Paid	Description	Amount	Balance
4/8/01	4/8/01	109	Part		1,200.00	1,200.00
12/3/01	12/3/01	867			132.00	1,332.00
<i>Check # 516 4/9/01, w/ 12/26/01 for 1/2</i>						
					<b>Total</b>	<b>1,332.00</b>

0-30	31-60	61-90	Over 90 days
132.00	0.00	0.00	1,200.00

TS 000715



with fresh  
500-

# BRAZILIAN PRESS NEWSPAPER

## Comercial Contract

Company BOI NA BRASA

Fantasy Name: \_\_\_\_\_

Address 70 ADAMS ST

City NEWARK State NJ

Zip 07105 Contact FARID

Tel: (973) 589 6069

Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_

For the Brazilian Press Newspaper

Signature: CHAS

Date: \_\_\_\_\_

\_\_\_\_\_

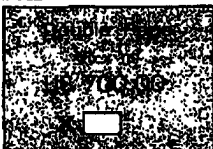
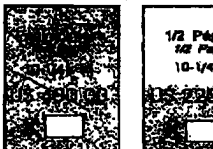
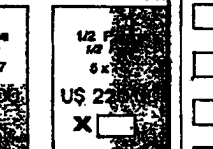
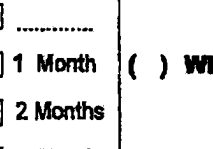
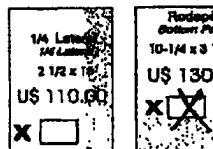
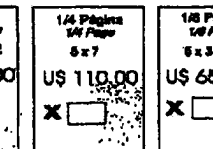
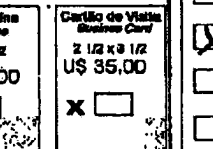
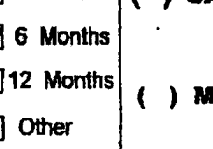
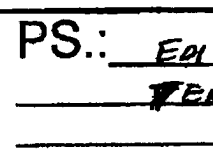
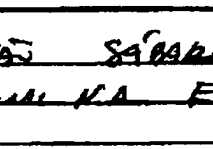
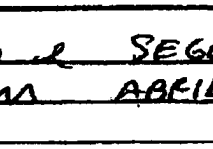
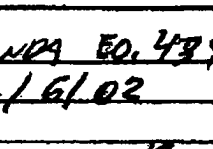
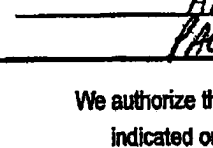
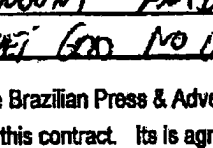
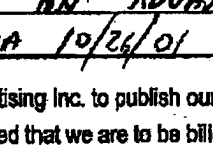
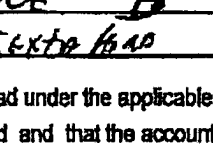
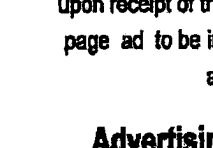
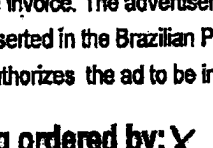
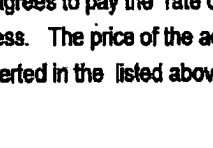
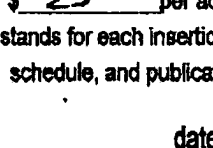
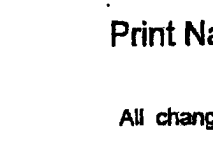
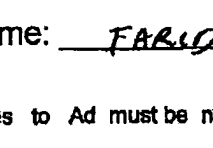
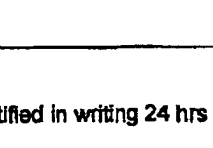
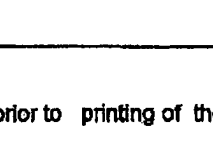
## BRAZILIAN PRESS

123 Van Buren - Suite 3 Newark - NJ, 07032

Tel (973) 844-4555 Fax (973) 344-7683

E-Mail: bpcoluna@ix.netcom.com

### Edition Dates

				<input type="checkbox"/> _____	<input type="checkbox"/> 1 Month ( ) WED <input type="checkbox"/> 2 Months <input type="checkbox"/> 3 Months ( ) SAT <input checked="" type="checkbox"/> 6 Months <input type="checkbox"/> 12 Months ( ) MON <input type="checkbox"/> Other	1st Edition <u>439</u>
				<input type="checkbox"/> _____		____/____/____
				<input type="checkbox"/> _____		____/____/____
				<input type="checkbox"/> _____		____/____/____
				<input type="checkbox"/> _____		____/____/____
				<input type="checkbox"/> _____		____/____/____

PS.: EDICAO SABADO 2 SEGUNDA ED. 439 10/6/01

TEL. NA FAX ABRIL/6/02

AMOUNT PAID AN ADVANCE B 1.200,00

PAGAR GOV MO DA 10/26/01 Sexta Fei

We authorize the Brazilian Press & Advertising Inc. to publish our ad under the applicable rate for the period indicated on this contract. Its is agreed that we are to be billed and that the accounts are to be paid upon receipt of the invoice. The advertiser agrees to pay the rate of \$ 25 per ad size BOTTOM page ad to be inserted in the Brazilian Press. The price of the ad stands for each insertion, and the advertiser authorizes the ad to be inserted in the listed above schedule, and publications.

Advertising ordered by: X date 10/6/01

Print Name: FARID

All changes to Ad must be notified in writing 24 hrs prior to printing of the newspaper.

The advertiser is responsible for the payment off all ads published. There will be a 20% fee charge of the balance remaining on contract in case of cancellation. Credit for error is allowed on first insertion only. All past due account are subjected to finance charge of 1.50% per month



**CHURRASCARIA BOI NA BRASA**  
70 ADAMS STREET #3 & 4  
NEWARK NJ 07105



**Any Question ? Call (732) 906-8039**  
**E-MAIL: [verdezamarelo@hotmail.com](mailto:verdezamarelo@hotmail.com)**

# INVOICE

**Invoice #** 005908  
**P.Order#** -  
**Contact:** FARID  
**Due Date:** FEB/12/02



**Log On Now!**

**WWW.VERDE-AMARELO.COM**  
*Maximizing your business*

[illegible]

**Thank You For Your Cooperation**

TS 000758





113 Monroe Street  
Newark, NJ 07105  
Phone: 973-589-4332  
Fax: 973-589-5280

# Invoice

DATE	INVOICE #
1/24/2003	3238

CUSTOM WEARABLES • EMBROIDERY • SILK SCREENING  
SPORTING GOODS • PREMIUMS • AD SPECIALTIES

**BILL TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

**SHIP TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

PHONE 973-589-6069

FAX

P.O. NO.	TERMS	REP	SHIP DATE	SHIP VIA	FOB	PROJECT
	COD	FP	1/24/2003			
QTY	DESCRIPTION				UNIT PRICE	EXTENSION
206	Ski Hats embroidery only. Sales Tax				3.20 6.00%	659.20 0.00
Hand Fabi 3/25/03						

**Total**

**\$659.20**

Payments received after 20 days will be charged interest at a rate of 2% per month.  
WE APPRECIATE YOUR BUSINESS.

**TS 000170**



113 Monroe Street  
Newark, NJ 07105  
Phone: 973-589-4332  
Fax: 973-589-5280

CUSTOM WEARABLES • EMBROIDERY • SILK SCREENING  
SPORTING GOODS • PREMIUMS • AD SPECIALTIES

# Invoice

DATE	INVOICE #
2/13/2003	3275

**BILL TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

**SHIP TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

PHONE 973-589-6069

FAX

P.O. NO.	TERMS	REP	SHIP DATE	SHIP VIA	FOB	PROJECT
	COD	FP	2/13/2003			
QTY	DESCRIPTION				UNIT PRICE	EXTENSION
2	Sign coroplast 3'x4' w/ Boi na Brasa and Casa Nova logo (parking) w/ installation				72.00	144.00T
1	Same as above 7'x4'				168.00	168.00T
	Sales Tax				6.00%	18.72
<div>Paid Fabio 9/16/03</div>						

**Total**

**\$330.72**

Payments received after 20 days will be charged interest at a rate of 2% per month.  
WE APPRECIATE YOUR BUSINESS.

TS 001018



113 Monroe Street  
Newark, NJ 07105  
Phone: 973-589-4332  
Fax: 973-589-5280

CUSTOM WEARABLES • EMBROIDERY • SILK SCREENING  
SPORTING GOODS • PREMIUMS • AD SPECIALTIES

# Invoice

DATE	INVOICE #
2/24/2003	3291

**BILL TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

**SHIP TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

PHONE 973-589-6069

FAX

P.O. NO.	TERMS	REP	SHIP DATE	SHIP VIA	FOB	PROJECT
	COD	FP	2/24/2003			
QTY	DESCRIPTION				UNIT PRICE	EXTENSION
1,000	Magnet calendar				0.38	380.00T
1	Freight				18.00	18.00
	Sales Tax				6.00%	22.80
<div>Paul Farid 3/25/03</div>						

**Total**

**\$420.80**

Payments received after 20 days will be charged interest at a rate of 2% per month.  
WE APPRECIATE YOUR BUSINESS.

TS 000171



113 Monroe Street  
Newark, NJ 07105  
Phone: 973-589-4332  
Fax: 973-589-5280

# Invoice

DATE	INVOICE #
2/24/2003	3291

CUSTOM WEARABLES • EMBROIDERY • SILK SCREENING  
SPORTING GOODS • PREMIUMS • AD SPECIALTIES

**BILL TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

**SHIP TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

PHONE 973-589-6069

FAX

P.O. NO.	TERMS	REP	SHIP DATE	SHIP VIA	FOB	PROJECT
	COD	FP	2/24/2003			
QTY	DESCRIPTION				UNIT PRICE	EXTENSION
1,000	Magnet calendar				0.38	380.00T
1	Freight				18.00	18.00
	Sales Tax				6.00%	22.80
DUPLICATE						
Paid Fajno 9/16/03						

**Total**

**\$420.80**

Payments received after 20 days will be charged interest at a rate of 2% per month.  
WE APPRECIATE YOUR BUSINESS.

TS 001015





113 Monroe Street  
Newark, NJ 07105  
Phone: 973-589-4332  
Fax: 973-589-5280

# Invoice

DATE	INVOICE #
3/10/2003	3300

CUSTOM WEARABLES • EMBROIDERY • SILK SCREENING  
SPORTING GOODS • PREMIUMS • AD SPECIALTIES

**BILL TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

**SHIP TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

PHONE 973-589-6069

FAX

P.O. NO.	TERMS	REP	SHIP DATE	SHIP VIA	FOB	PROJECT
	COD	FP	3/10/2003			
QTY	DESCRIPTION				UNIT PRICE	EXTENSION
21	Aprons to be printed w/ one color (Boi na Brasa logo)				3.50	73.50
	Sales Tax				6.00%	0.00
<i>Handwritten:</i> Paid Fabry 3/25/03						

**Total**

**\$73.50**

Payments received after 20 days will be charged interest at a rate of 2% per month.  
WE APPRECIATE YOUR BUSINESS.

**TS 000172**



113 Monroe Street  
Newark, NJ 07105  
Phone: 973-589-4332  
Fax: 973-589-5280

# Invoice

DATE	INVOICE #
6/9/2003	3484

CUSTOM WEARABLES • EMBROIDERY • SILK SCREENING  
SPORTING GOODS • PREMIUMS • AD SPECIALTIES

**BILL TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

**SHIP TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

PHONE 973-589-6069

FAX

P.O. NO.	TERMS	REP	SHIP DATE	SHIP VIA	FOB	PROJECT
	COD	FP	6/9/2003			
QTY	DESCRIPTION				UNIT PRICE	EXTENSION
1	Banner 4x16 w/ sponsors				384.00	384.00T
2	Coroplast boxes (Confianza Moving)				150.00	300.00T
1	Banner 4x12 (Boi na Brasa)				240.00	240.00T
60	T-shirts w/ one color on back and one color on front(Boi Na Brasa)				4.50	270.00
60	Same as above (Casa Nova)				4.50	270.00
1	Set-up charge (Sponsors for T's)				30.00	30.00
	Sales Tax				6.00%	55.44
<div><div>\$ 895.00</div><div>Farid 7/18/03</div></div>						

**Total**

\$1,549.44

140.00

1309.44

Payments received after 20 days will be charged interest at a rate of 2% per month.  
WE APPRECIATE YOUR BUSINESS.

TS 000158



**170 Malvern Street - Newark, NJ 07105**

e-mail: pbaprinting@msn.com

№ 02998

DATE 07/11/03

TO EXT NA SPASA

**ADDRESS**

CITY

STATE/ZIP

TEL: ( )

TS 001033

Superstation Media Inc  
 TV GLOBO INTL. Representative in the USA  
 P. O. BOX 310595  
 Miami, FL 33231-0595  
 PHONE: 305-576-6933  
 FAX: 305-576-1903

# Invoice

Date	Invoice #
7/29/2003	3286

Bill To:
Boi na Brasa Farid Mubarak 72 Adams Street #4 Newark, NJ 07105 973 589-6069 Fax 973 344-0191

		Agency	Due Date	Account #
		Photo Art	8/20/2003	
Item	Description	Qty	Rate	Amount
Shows 03	40 spots 30" to be aired on TV GLOBO INTL.  <div style="text-align: center;"> <p><u>KATTY</u></p> <p>3550 BISCAYNE BLVD FLAT 700</p> <p>21 33 137</p> <p>MIAMI FL</p> </div>		2,450.00	2,450.00
Total				\$2,450.00

Make check payable to Superstation Media Inc.

We may charge you \$20 for returned checks.

We apologize if you received this fax in error. If you ever decide you want to be removed from our fax list, please write "Remove" on this document and fax it back toll free to 1-866-705-1394.

TS 001032



113 Monroe Street  
Newark, NJ 07105  
Phone: 973-589-4332  
Fax: 973-589-5280

# Invoice

DATE	INVOICE #
9/12/2003	3744

CUSTOM WEARABLES • EMBROIDERY • SILK SCREENING  
SPORTING GOODS • PREMIUMS • AD SPECIALTIES

**BILL TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

**SHIP TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

PHONE 973-589-6069

FAX

P.O. NO.	TERMS	REP	SHIP DATE	SHIP VIA	FOB	PROJECT
	COD	FP	9/12/2003			
QTY	DESCRIPTION				UNIT PRICE	EXTENSION
4	Roof car signs w/ Boi na Brasa logo				70.00	280.00T
	Sales Tax				6.00%	16.80
<div>Paid Feb 0 9/16/03</div>						

**Total**

**\$296.80**

Payments received after 20 days will be charged interest at a rate of 2% per month.  
WE APPRECIATE YOUR BUSINESS.

TS 001017



113 Monroe Street  
Newark, NJ 07105  
Phone: 973-589-4332  
Fax: 973-589-5280

# Invoice

DATE	INVOICE #
9/12/2003	3746

CUSTOM WEARABLES • EMBROIDERY • SILK SCREENING  
SPORTING GOODS • PREMIUMS • AD SPECIALTIES

**BILL TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

**SHIP TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

PHONE 973-589-6069

FAX

P.O. NO.	TERMS	REP	SHIP DATE	SHIP VIA	FOB	PROJECT
	COD	FP	9/12/2003			
QTY	DESCRIPTION				UNIT PRICE	EXTENSION
2	White book Matches whit red imprint				86.00	172.00T
1	Freight				20.00	20.00
	Sales Tax				6.00%	10.32
<div>Paid Folio 9/16/03</div>						

**Total**

**\$202.32**

Payments received after 20 days will be charged interest at a rate of 2% per month.  
WE APPRECIATE YOUR BUSINESS.

TS 001016



113 Monroe Street  
Newark, NJ 07105  
Phone: 973-589-4332  
Fax: 973-589-5280

# Invoice

DATE	INVOICE #
12/17/2003	3983

CUSTOM WEARABLES • EMBROIDERY • SILK SCREENING  
SPORTING GOODS • PREMIUMS • AD SPECIALTIES

**BILL TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

**SHIP TO:**

Boi na Brasa  
Farid  
70 Admas St. Store#4  
Newark, NJ 07105

PHONE 973-589-6069

FAX


P.O. NO.	TERMS	REP	SHIP DATE	SHIP VIA	FOB	PROJECT
	COD	FP	12/17/2003			
QTY	DESCRIPTION				UNIT PRICE	EXTENSION
200	Ski hats black and navy blue w/ embroidery on front lap				3.50	700.00
1	Set-up charge embroidery upgrade				90.00	90.00
	Sales Tax				6.00%	0.00
	c					

**Total**

**\$790.00**


Payments received after 20 days will be charged interest at a rate of 2% per month.  
WE APPRECIATE YOUR BUSINESS.

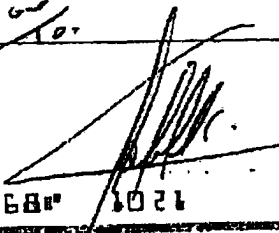
**TS 000769**

 **TERRA SUL CORP**  
70 ADAMS ST. STORE NO 4  
NEWARK NJ 07105

Date 5/2/04 1021  
66-750/0312  
062

Pay to the Order of AD SALAS INC. \$ 790.00  
SEVEN HUNDRED NINETY Dollars @ 100

 **PNCBANK**  
PNC Bank, N.A. 060  
New Jersey

For Big bus 

⑆031207607⑆ 8012786668⑆ 1021

TS 000768



Brazilian Voice Newspaper

EDIÇÃO BRASILEIRA INC  
PO Box 5686  
Newark, NJ 07105

# Invoice

Date	Invoice #
1/2/2004	25212

<b>Bill To</b>
Boi na Brasa Churrascaria 70 Adams Street Newark, NJ 07105

		Terms	Due Date	Rep	Client	
		Due on receipt	1/2/2004	vh		
Item	Description	Insertion D...	Qty	Gross Price	Net Price	Amount
1/16	Business Card Classified Section - Edition 675/677/678	December 3/17/24	3		35.00	105.00
Full	Full Page Ad - Edition 677/678 *Client did not request 2 ads	December 17/24	1		250.00	250.00
<div>PAID BY CASH # 1515 ON 6/23/04</div> <div>FAST DUE PLEASE REMIT</div>						
Please make check payable to: EDICAO BRASILEIRA, INC. Favor fazer o cheque para EDICAO BRASILEIRA				Total	\$355.00	
				Payments/Credits	\$0.00	
				Balance Due	\$355.00	

TS 000891

# Invoice

P. O. BOX 310595  
Miami, FL 33231-0595  
PHONE: 305-576-6933  
FAX: 305-576-1903

Date	Invoice #
4/1/2004	4267

<b>Bill To</b>
Boi na Brass Farid Mubarak 72 Adams Street #4 Newark, NJ 07103 973 589-6069 Fax 973 344-0191

		Due Date	Agency	Account #
		6/20/2004	DrPre	
Item	Description	Qty	Rate Net	Amount
Novclap + Variada...	46 Spots 30" to be aired on TV Globo Int'l, 3/3		2,350.00	2,350.00
			<b>Total Net</b>	\$2,350.00
			<b>Balance Due</b>	\$2,350.00

TS 000771

INVOICE

# Civil Service Leader

*Official Organ of the N.J. Civil Service Association*

TO:

CHURRASCARIA BOI NA BRASA  
70 ADAMS ST  
NEWARK NJ

TC

5/21 20 04

FARID FALEC 973-589-6069

ADVERTISEMENT

\$100.00

Please Make Checks Payable to CIVIL SERVICE LEADER  
313 Broad Avenue, Suite 203, Ridgefield, N.J. 07657  
(201) 941-6397 • (908) 820-9000 • (609) 278-1400  
FAX (201) 941-1803

# Civil Service Leader

*Official Organ of the N.J. Civil Service Association*

Thomas R. Cannon  
Executive Sales Manager

313 Broad Avenue • Suite 203 • Ridgefield, N.J. 07657  
(201) 941-6397 • (908) 820-9000 • (609) 278-1400  
Fax (201) 941-1803

TS 000892

Superstation Media Inc.  
 TV GLOBE Intl. Representative in the USA.  
 P. O. BOX 310595  
 Miami, FL 33231-0595  
 PHONE: 305-576-6933  
 FAX: 305-576-1903

# Invoice

Date	Invoice #
6/1/2004	4459

<b>Bill To</b>
Boi na Brasa Farid Mubarak 72 Adams Street #4 Newark, NJ 07105 Ph(973)589-6069 Fax(973)44-0191

		Due Date	Agency	Account #
		6/20/2004	BrPr	
Item	Description	Qty	Rate Net	Amount
Novelas + Variety 2	46 Spots 30" to be aired on TV Globo Intl. 2/3	1	2,350.00	2,350.00
			<b>Total Net</b>	\$2,350.00
			<b>Payments/Credits</b>	\$0.00
			<b>Balance Due</b>	\$2,350.00

Make check payable to Superstation Media Inc.  
 We may charge you \$ 30.00 for returned checks.

TS 000890

**COMMUNITY ADVERTISEMENT**

134 East Kinney St.  
Newark, NJ 07105  
Tel: (973) 589-8829  
Cell: (973) 568-4570

**INVOICE**

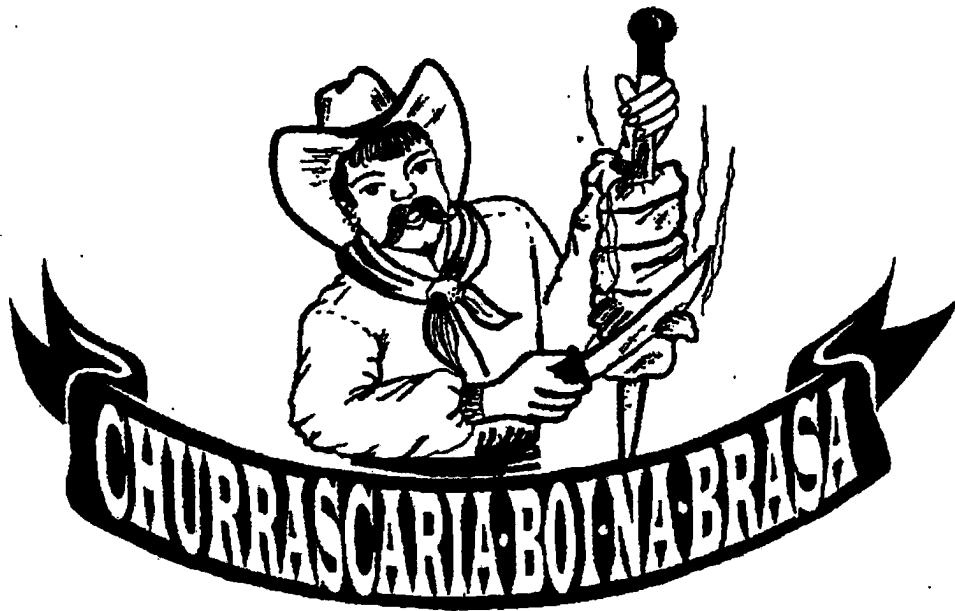
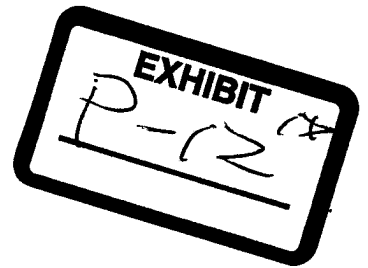
Date	Invoice #
6/11/2007	4223

**Bill To**

Boi Na Brasa  
1 Merchant St.  
Newark, N.J. 07105

Item Code	Date	Description	Amount
Revista Encontro	6/10/2007	Advertising for "Dia de Portugal" Full Page	1,000.00
Thank you for your business.			
<b>Total</b>			<b>\$1,000.00</b>

**TS 001110**



70 ADAMS ST. - STORE #4  
NEWARK, N.J. 07105

**TEL.: (973) 589-6069 / 589-6984**

**★ FREE DELIVERY ★**

TS 000085

## Aperitivos - Appetizers

Camarão ao Alho ( <i>Sautéed Shrimp in Garlic Sauce</i> ) .....	\$ <u>6.50</u>
Linguiça com Mandioca Frita ( <i>Fried Sausage</i> ) .....	\$ <u>6.00</u>
Frango a Passarinho ( <i>Fried Chicken</i> ) .....	\$ <u>6.00</u>

## Saladas - Salads

Salada de Palmito ( <i>Heart of Palm Salad</i> ) .....	\$ <u>5.00</u>
Salada Simples ( <i>House Salad</i> ) .....	\$ <u>3.50</u>
Salad Bar .....	\$ <u>5.00</u>

## Churrasco - Barbecue

Rodizio ( <i>Continuous B.B.Q. - all you can eat- not for take-out</i> ) .....	\$ <u>16.00</u>
Espeto de Peru c/ Bacon ( <i>Turkey w/ Bacon Skewer</i> ) .....	\$ <u>15.00</u>
Espeto de Frango ( <i>Chicken Skewer</i> ) .....	\$ <u>13.00</u>
Espeto de Vaca ( <i>Beef Skewer</i> ) .....	\$ <u>18.00</u>
Espeto de Costela Vaca ( <i>Beef Short Ribs Skewer</i> ) .....	\$ <u>18.00</u>
Espeto de Camarão ( <i>Shrimp Skewer</i> ) .....	\$ <u>15.00</u>
Espeto de Porco ( <i>Pork Skewer</i> ) .....	\$ <u>15.00</u>
1/2 Espeto de Picanha ( <i>1/2 Sirloin Skewer</i> ) .....	\$ <u>17.00</u>
1 Espeto de Picanha ( <i>Até 3 pessoas</i> ) ( <i>1 Sirloin Skewer for 3 people</i> ) .....	\$ <u>28.00</u>
1 1/2 Espeto de Picanha ( <i>1 1/2 Sirloin Skewer</i> ) .....	\$ <u>42.00</u>
Espeto Misto ( <i>Mix Skewer</i> ) .....	\$ <u>16.00</u> ....(For 2 People).....
Espeto de Coração ( <i>Chicken Heart Skewer</i> ) .....	\$ <u>13.00</u>
Espeto de Alcatra c/Bacon ( <i>Top Sirloin w/ Bacon Skewer</i> ) .....	\$ <u>17.00</u>

## Frango - Poultry

Frango a Milaneza ( <i>Breaded Chicken</i> ) .....	\$ <u>11.00</u>
Frango a Parmegiana ( <i>Chicken Parmegiana</i> ) .....	\$ <u>12.00</u>
Frango a Passarinho ( <i>Fried Chicken</i> ) .....	\$ <u>10.00</u>
Picadinho de Frango ( <i>Chicken Strips</i> ) .....	\$ <u>11.00</u>
Frango ao Alho ( <i>Garlic Chicken</i> ) .....	\$ <u>10.00</u>

# Festa BRASILEIRA De Portugal Nobilio

## 09 & 10 de Junho

### Sábado & Domingo

Super produção: Wellington

## Marcio Mendes & Mix Brasil Band

Convidados especiais:

### Alan Kardec, Geraldi & Cezinha

Local:

### Adams St \* Newark, NJ

Distribuição de brindes



<b>Victor's Fish Market</b> Aquatic soups 10000 17th Ave (973) 688-3384 (973) 688-1187 100 Adams St., Newark, NJ	<b>FAST &amp; EASY FINANCING</b> <b>WILSON</b> 1-800-785-8400 <b>SALE COM: TINO DU PAULO</b>	<b>Salão Brasil</b> Hair Styling Nail Art Waxing 100 Adams St., Newark, NJ (973) 688-1187	<b>STATEWIDE</b> Insurance Services Auto, Life, Fire, Marine 100 Adams St., Newark, NJ (973) 688-1187	<b>GRANULAS</b> Coffee 100 Adams St., Newark, NJ (973) 688-1187	<b>Brasileiro Press</b> 100 Adams St., Newark, NJ (973) 688-1187	<b>Simões &amp; Monteiro, P.C.</b> 100 Adams St., Newark, NJ (973) 688-1187
<b>AD</b> 100 Adams St., Newark, NJ (973) 688-1187	<b>Eden's English Center</b> "Where learning happens" 100 Adams St., Newark, NJ (973) 688-1187	<b>G.T. AUTO SALES CORP.</b> 100 Adams St., Newark, NJ (973) 688-1187	<b>ARROW TRUCK SALES</b> 100 Adams St., Newark, NJ (973) 688-1187	<b>Tutti Frutti</b> 100 Adams St., Newark, NJ (973) 688-1187	<b>Narciso's Printing</b> 100 Adams St., Newark, NJ (973) 688-1187	<b>Simões &amp; Monteiro, P.C.</b> 100 Adams St., Newark, NJ (973) 688-1187

WWW.NARCISOSPRINTING.COM • 973-578-2088

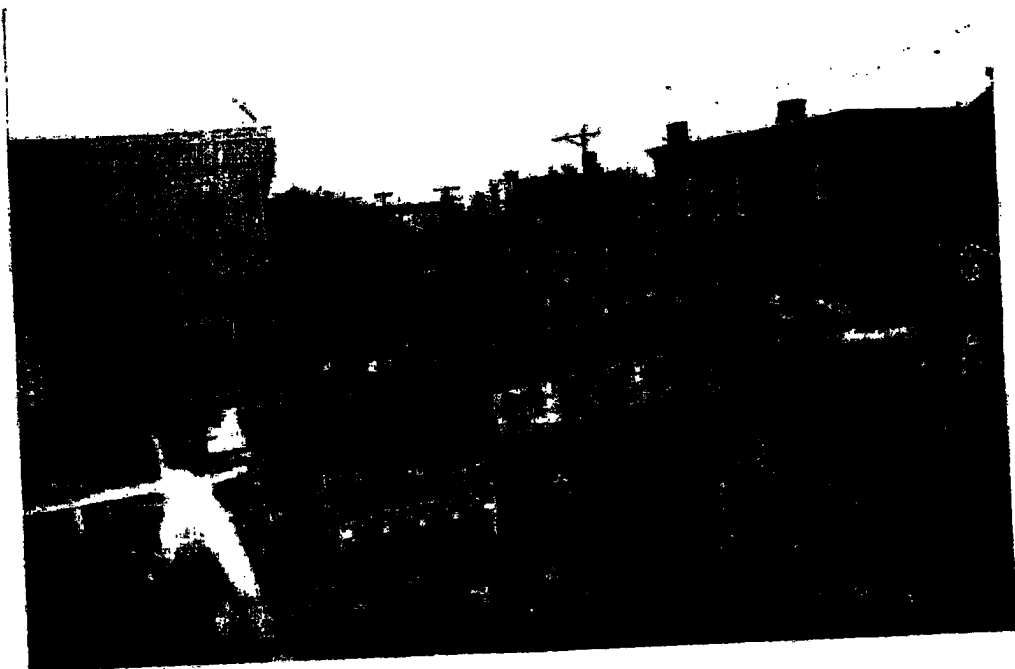
EXHIBIT  
P-13

TS 000698





TS 000732



TS 000731



TS 000730

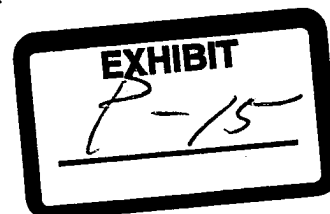
# **\*Trademark/Service Mark Application\***

**\* To the Commissioner for Trademarks \***

<DOCUMENT INFORMATION>  
<TRADEMARK/SERVICEMARK APPLICATION>  
<VERSION 1.22>

**<APPLICANT INFORMATION>**

<NAME> Farid Saleh  
<STREET> 70 Adam St  
<CITY> Newark  
<STATE> NJ  
<COUNTRY> USA  
<ZIP/POSTAL CODE> 07105  
<TELEPHONE NUMBER> 973-589-6069



<APPLICANT ENTITY INFORMATION>  
<CORPORATION: STATE/COUNTRY OF INCORPORATION> New Jersey

**<TRADEMARK/SERVICEMARK INFORMATION>**

<MARK> CHURRASCARIA BOI NA BRASA CORP.

<TYPED FORM> Yes

<BASIS FOR FILING AND GOODS/SERVICES INFORMATION>  
<INTENT TO USE: SECTION 1(b)> Yes ☒

<LISTING OF GOODS AND/OR SERVICES> RESTURANT SERVICE

<FEE INFORMATION>  
<TOTAL FEES PAID> 325  
<NUMBER OF CLASSES PAID> 1  
<NUMBER OF CLASSES> 1

<LAW OFFICE INFORMATION>  
<E-MAIL ADDRESS FOR CORRESPONDENCE> N/A

..get?USPTO-152163201177-2002032114033461-PrintEAS-122891f567db6051a3332c52011c3/21/02

TS 000763

## &lt;SIGNATURE AND OTHER INFORMATION&gt;

~ PTO-Application Declaration: The undersigned, being hereby warned that willful false statements and the like so made are punishable

U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, do

execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought

filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge;

association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be

goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of

statements made on information and belief are believed to be true. ~

&lt;SIGNATURE&gt;

\* please sign here\*

&lt;DATE&gt;

&lt;NAME&gt; Farid Saleh

&lt;TITLE&gt; CEO

JAN 10 2007  
RECEIVED  
UNITED STATES  
DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

The information collected on this form allows the PTO to determine whether a mark may be registered on the Principal and provides notice of an applicant's claim of ownership of the mark. Responses to the request for information are required to obtain the benefit of a registration on the Principal or Supplemental register. 15 U.S.C. §§1051 et seq. and 37 C.F.R. Part 2. All information collected will be made public. Gathering and providing the information will require an estimated 12 or 18 minutes (depending if the use the mark in commerce, use of the mark in commerce, or a foreign application or registration). Please direct comments on the time needed to complete this form, and/or suggestions for reducing this burden to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington D.C. 20231. Please note that the PTO may not conduct or sponsor a collection of information using a form that does not display a valid OMB control number.

**STATE OF NEW JERSEY  
BUSINESS REGISTRATION CERTIFICATE**

<b>Taxpayer Name:</b>	CHURRASCARIA BOI NA BRASA CORP
<b>Trade Name:</b>	
<b>Address:</b>	70 ADAMS ST NEWARK, NJ 07105
<b>Certificate Number:</b>	0665488
<b>Effective Date:</b>	June 03, 1996
<b>Date of Issuance:</b>	June 12, 2008

**For Office Use Only:**  
20080612160159914

# EXHIBIT E

February 25, 2009

Via U.S. mail

U.S. Patent and Trademark Office  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

#75748967

Re: *Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa v. Boi Na Brasa, Inc.*; In  
the United States Patent and Trademark Office before the Trademark Trial and  
Appeal Board; Cancellation No. 92047056  
Our Ref.: TSUL/0002

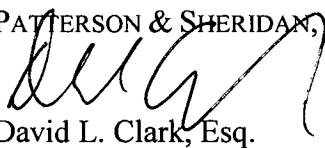
Dear Sirs:

Enclosed please find a complete copy of Petitioner's Trial Brief. Exhibits A-10 through  
A-13 are marked "**Confidential Pursuant to Protective Order**".

Should you have any questions or concerns, please contact Mr. Wall at (732) 842-8110.

Very truly yours,

PATTERSON & SHERIDAN, LLP

  
David L. Clark, Esq.

DLC/gs  
Enclosures

1064339\_1.DOC



02-27-2009

U.S. Patent & Trademark Office

3040 Post Oak Blvd, Suite 1500  
Houston, TX 77056-6582  
TEL 713.623.4844  
FAX 713.623.4846

250 Cambridge Ave, Suite 300  
Palo Alto, CA 94306-1549  
TEL 650.330.2310  
FAX 650.330.2314

595 Shrewsbury Ave, Suite 100  
Shrewsbury, NJ 07702-4185  
TEL 732.530.9404  
FAX 732.530.9808

7103 Lentz Court  
Summerfield, NC 27358-9127  
TEL 336.643.3065  
FAX 336.643.8994



Patterson & Sheridan, LLP

February 25, 2009

Page 2

cc: Herbert J. Hammond, Esq.  
Deborah L. Lively, Esq.  
Remy McElroy Davis, Esq.  
Thompson & Knight LLP  
1700 Pacific Avenue  
Suite 3300  
Dallas, Texas 75201-4693  
*Via U.S. mail*

Eamon J. Wall, Esq.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Terra Sul Corporation a/k/a	§	
Churrascaria Boi Na Brasa	§	
	§	
Petitioner	§	
	§	
V.	§	Cancellation No. 92047056
	§	
Boi Na Braza, Inc.,	§	
	§	
Registrant.	§	

**PETITIONER'S TRIAL BRIEF**

Pursuant to 37 C.F.R. § 1.128 and Rules 801 *et seq.* of the Trademark Trial and Appeal Board Manual of Procedure, Petitioner Terra Sul Corporation, a/k/a Churrascaria Boi Na Brasa (hereinafter "Petitioner" or "Terra Sul") hereby submits its Trial Brief for consideration by the Board. Petitioner maintains its contention that the federal registration of the BOI NA BRAZA mark currently owned by Registrant Boi Na Braza, Inc. (hereinafter "Registrant" or "Boi Na Braza") should be cancelled. Petitioner's factual and legal support for this contention is set forth as follows:

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## I.

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## II.

### DESCRIPTION OF THE RECORD

The evidence of record consists of discovery responses of Registrant Boi Na Braza, designated official records of documents produced by Registrant through discovery, and the testimony deposition of Farid Saleh (taken on August 7, 2008, with exhibits 1 through 22).

Petitioner shall rely on the following exhibits properly made of record:

A. Testimony Deposition of Farid Saleh (with below exhibits thereto):

1. Churrascaria Boi Na Brasa Corp., Certificate of Incorporation, filed March 28, 1996 in the State of New Jersey.
2. Churrascaria Boi Na Brasa Corp., Certificate of Authority, issued by the State of New Jersey on June 4, 1996 with a tax effective date of April 15, 1996.
3. Offer to Purchase Real Estate, dated February 28, 1996.
5. Check to Newark Adams, from account of Churrascaria Boi Na Brasa Corp., dated May 6, 1997, signed by Farid Saleh.
6. Commercial General Liability Insurance Policy for Churrascaria Boi Na Brasa, with policy period May 9, 1996 through May 9, 1997.
7. Commercial General Liability Insurance Policy for Churrascaria Boi Na Brasa, with policy period October 6, 1997 through October 6, 1998.
8. Commercial Lines Insurance Policy for Churrascaria Boi Na Brasa, with policy period May 22, 1998 through May 22, 1999.
9. Commercial Lines Insurance Policy for Churrascaria Boi Na Brasa, with policy period June 14, 1999 through June 14, 2000.
10. PNC Bank account statement for Churrascaria Boi Na Brasa Corp., dated April 30, 1997. CONFIDENTIAL AND FILED UNDER SEAL.
11. PNC Bank account statement for Churrascaria Boi Na Brasa Corp., dated May 31, 1997. CONFIDENTIAL AND FILED UNDER SEAL.
12. Income Tax Forms – 1996 for Farid Saleh & Tais Mubarak. CONFIDENTIAL AND FILED UNDER SEAL.
13. Income Tax Forms – 1997 for Farid Saleh & Tais Mubarak. CONFIDENTIAL AND FILED UNDER SEAL.
14. Check to PSE&G, from account of Churrascaria Boi Na Brasa Corp., dated June 26, 1996, signed by Farid Saleh.

15. Copies of Advertisements for Churrascaria Boi Na Brasa in Brazilian Press, publication dates September 17-23, 1997 and November 17, 1999.
16. Hold Harmless and Indemnity Agreement between The Trump Taj Majal Casino Resort and Churrascaria Boi Na Brasa, dated June 7, 1996.
17. Original drawing of logo for Churrascaria Boi Na Brasa, dated 1995.
18. Terra Sul Corp., Certificate of Incorporation, filed in State of New Jersey on January 19, 1999.
19. Terra Sul Corp., Registration of Alternate Name (Churrascaria Boi Na Brasa), filed in State of New Jersey on February 13, 2007.
20. Terra Sul Corp., Certificate of Authority, issued by State of New Jersey on August 27, 2002 with a tax effective date of April 1, 1999.
21. Cease and desist letter from Thompson & Knight, LLP to Farid Saleh, dated January 11, 2007.
22. Printout from Internet of Article in Village Voice, "Best Choice Churrascaria" printed on January 17, 2007.

- B. Registrant's Objections and Answers to Petitioner Terra Sul's First Set of Interrogatories (Nos. 1-25).
- C. Registrant's Objections and Responses to Petitioner Terra Sul's First Set of Requests for Admissions (Nos. 1-12).
- D. Objections and Answers to Petitioner Terra Sul's Second Set of Interrogatories (Nos. 26-50) and Requests for Admission (Nos. 13-21) to Registrant Boi Na Braza.
- E. Certificate of Incorporation, Boi Na Braza, Inc., issued June 24, 1999 by the State of Texas Secretary of State, effective June 24, 1999.

### **III.**

#### **STATEMENT OF THE ISSUES**

Petitioner Terra Sul Corporation seeks cancellation of United States federal trademark registration number 2,534,608 for the word mark BOI NA BRAZA owned by Registrant Boi Na Braza, Inc. Registrant's mark is likely to cause confusion, mistake or deception with regard to Petitioner's prior common law rights in the service mark CHURRASCARIA BOI NA BRASA within the meaning of Section 2(d) of the Trademark Act. Petitioner is the senior user.

Alternatively, Registrant's mark BOI NA BRAZA, when properly translated from Portuguese to English and used in connection with the services set forth in the registration, is merely descriptive of Registrant's goods and services within the meaning of Section 2(e) of the Trademark Act. As such, the mark fails to operate as a trademark and the federal registration should be cancelled.



#### IV.

#### **RECITATION OF THE FACTS**

Registrant Boi Na Braza, Inc. filed for a federal trademark registration for the word mark BOI NA BRAZA on July 1, 1999. Registrant obtained the registration (No. 2,534,608) on January 29, 2002. At this time, Petitioner was wholly unaware of Registrant or the existence of Registrant's mark. *See* Exhibit A at page 58, lines 22–25. On January 11, 2007, Registrant sent Farid Saleh a letter demanding that Petitioner cease all use of its names “Churrascaria Boi Na Brasa” and/or “Boi Na Brasa Bar & Grill” in connection with Petitioner's restaurant business. *Id.* *See also* Exhibit A-21. Shortly thereafter, on January 29, 2007, Petitioner Terra Sul initiated this Cancellation Proceeding against Boi Na Braza.

##### **A. Churrascaria Boi Na Brasa**

Farid Saleh first conceived of a restaurant called “Churrascaria Boi Na Brasa” in 1995, and commissioned the design of a logo through a friend. Exhibit A, at pages 38–40. *See also* Exhibit A-17. Petitioner then purchased the land at 70 Adams Street in Newark, New Jersey, which soon became the location of the restaurant. *See* Exhibit A-3. Petitioner began using the service mark CHURRASCARIA BOI NA BRASA to identify its restaurant services at least as early as 1996 in Newark, New Jersey. Exhibit A, at page 39. In 1996, the original name of the corporate entity that owned the mark was “Churrascaria Boi Na Brasa Corp.” *See* Exhibit A-1. *See also* Exhibit A, at page 6, lines 17–22. Farid Saleh was President and part-owner of Churrascaria Boi Na Brasa. Exhibit A, at pages 6–7. Churrascaria Boi Na Brasa Corp. was incorporated in the State of New Jersey on March 28, 1996 and began doing business at the 70 Adams Street address in Newark shortly thereafter. *See* Exhibits A-1 and A-2. *See also* Exhibit A at pages 5–8.

When Petitioner's restaurant opened in 1996, no one else used the name “Boi Na Brasa”

in the restaurant business. *See* Exhibit A, at page 39–40. Petitioner initially began advertising through flyers and word of mouth and later through newspapers. *Id.* By September 1997, Petitioner was advertising CHURRASCARIA BOI NA BRASA in the Brazilian Press, (a nationally-distributed newspaper), among other publications. *See* Exhibit A-15. Soon after the restaurant opened, Petitioner was given the opportunity to do a catering event in Atlantic City for the Trump Taj Mahal Casino Resort. Exhibit A, at pages 45–46. *See also* Exhibit A-16. Within a short amount of time, Petitioner’s restaurant business and the associated service mark CHURRASCARIA BOI NA BRASA had become well-known to the relevant public, primarily in the Tri-state area of New York, New Jersey and Connecticut. From 1996 to the present day, the restaurant on 70 Adams Street in Newark, New Jersey has been continuously known as “Churrascaria Boi Na Brasa” and the name has never changed. *See* Exhibit A, at page 51, lines 8–15, and pages 97–98.

**B. Formation of Terra Sul Corp.**

In January 1999, Terra Sul Corporation was formed. Terra Sul was formally incorporated in the State of New Jersey on January 18, 1999. Exhibit A-18. From its inception through the present day, Farid Saleh has been the owner and President of Terra Sul Corporation. *See* Exhibit A, at page 6, lines 23–24, pages 27–28, and page 55, lines 5–7. Soon after its formation, Petitioner Terra Sul acquired ownership of the restaurant “Churrascaria Boi Na Brasa” and the associated service mark CHURRASCARIA BOI NA BRASA. Exhibit A, at page 51, lines 16–25. The restaurant always was and still continues to be known as “Churrascaria Boi Na Brasa” and in 2007, Terra Sul formally filed for a Registration of Alternate Name in New Jersey. *See* Exhibit 19.

Meanwhile, Churrascaria Boi Na Brasa continues to be a popular and well-known restaurant in the New York and New Jersey geographic areas. For example, the Village Voice

recently named it the “Best Choice Churrascaria” restaurant for 2006. *See* Exhibit A-22. Farid Saleh has also registered a domain name for the restaurant, and Petitioner maintains an Internet website presence at [www.boinabrasa.com](http://www.boinabrasa.com). Exhibit A, at page 58, lines 1–17. The service mark CHURRASCARIA BOI NA BRASA has been continuously used to identify the restaurant at 70 Adams Street in Newark, New Jersey. Exhibit A, at pages 97–99. There has never been an abandonment of the use of this service mark that identifies this restaurant. *Id.*

**C. Registrant’s Status as a Junior User**

In contrast, Registrant’s alleged “first use” of its BOI NA BRAZA mark is July 1999. Furthermore, according to the trademark registration information, Registrant’s first “use in commerce” was September 11, 2000. Boi Na Braza, Inc. also claims that “in the second half of 1998, the Matheus Brothers researched and chose this name for their restaurant business and purchased land to build their first restaurant.” *See* Exhibit D, Interrogatory No. 26. By its own admission, the earliest that Registrant’s mark was in existence was maybe the “second half of 1998.” *Id.* Moreover, the corporate entity, Boi Na Braza, Inc., was not registered in the State of Texas until June 24, 1999. *See* Exhibit E. Lastly, Registrant Boi Na Braza’s webpage [www.boinabraz.com](http://www.boinabraz.com) was not online and accessible until June 26, 2000 at the earliest. *See* Exhibit C, Request No. 18. By this time, Petitioner Churrascaria Boi Na Braza had already acquired significant goodwill and established a reputation through its presence in the restaurant industry.

Registrant’s first “Boi Na Braza” restaurant was opened in Grapevine, Texas in 1999. Registrant later opened similar restaurants under the same name in Cincinnati, Ohio and Atlanta, Georgia. *See* Exhibit D, Interrogatory No. 32. The Atlanta, Georgia restaurant is now owned and controlled by a licensee of the mark. *Id.* *See also* Exhibit B, Interrogatory No. 23. Registrant has admitted to never operating a restaurant in New York or New Jersey. Exhibit C,

Request Nos. 2–5.<sup>1</sup>

Despite its lack of seniority, Registrant threatened Terra Sul with a trademark infringement lawsuit on January 11, 2007. Exhibit A-21. Registrant claimed that Churrascaria Boi Na Brasa offers “virtually the same style of restaurant services and food as those offered under the Boi Na Braza Marks.” Further, Registrant claims that “the use of the [CHURRASCARIA BOI NA BRASA mark] is likely to result in significant confusion among consumers ... due to the similarities in the appearance and sound of the marks as well as the similarities in the services offered under the marks.” *Id.*

The facts in the record are clear that Petitioner began using in commerce its CHURRASCARIA BOI NA BRASA name and common law service mark prior to Registrant’s creation, development and/or subsequent use of any BOI NA BRAZA mark. The facts are further undisputed that Petitioner and Registrant both operate in the same industry and within the same trade channels. Registrant is not the senior user. In contrast, Petitioner Terra Sul is the senior user and the holder of any rights in the marks for use in the restaurant industry.

## V.

### LEGAL ARGUMENT & AUTHORITY

Boi Na Braza, Inc.’s federal trademark registration for BOI NA BRAZA should be cancelled for at least the following reasons. First, Petitioner Terra Sul has priority and has senior rights in its CHURRASCARIA BOI NA BRASA mark. Consequently, Registrant’s use of its mark is likely to cause confusion among the relevant public in the marketplace. Secondly, Registrant’s mark is merely descriptive of its goods and services and has not acquired secondary meaning in the marketplace. For at least these reasons, Registrant’s mark fails to operate as a

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<sup>1</sup> Registrant, however, has admitted an interest in establishing a presence in New York. *See* Exhibit D, Interrogatory No. 41.

trademark and should not be afforded the rights and protections offered to it under a federal registration.

**A. Senior Use and the Associated Rights Thereto**

As the first user of the CHURRASCARIA BOI NA BRASA mark in commerce, Petitioner Terra Sul has senior common law rights that supersede Registrant Boi Na Braza's alleged rights. The user who first appropriates the mark obtains an enforceable right to exclude others from using it. *Patsy's Italian Rest., Inc. v. Banas*, 508 F. Supp. 2d 194, 217 (E.D.N.Y. 2007). The prior user of an unregistered mark is also entitled to common law protection for its continued use of the mark in the areas of use that predate registration. *Id.* To prove prior use, Petitioner must show: (1) present rights in the mark, (2) rights acquired prior to the date of Registrant's registration, (3) continual use of the mark since that date, and (4) use prior to the Registrant on the goods or services that are in issue. *Id.* (citing *Dial-A-Mattress Operating Corp. v. Mattress Madness, Inc.*, 841 F. Supp. 1339, 1353-54 (E.D.N.Y. 1994)).

Petitioner used the service mark CHURRASCARIA BOI NA BRASA in commerce prior to Registrant's first use of BOI NA BRAZA. Petitioner's first use in commerce is at least as early as March 1996. *See* Exhibit A-1. Registrant's first use in commerce is sometime in 1999, when its Texas-based restaurant opened. Registrant may claim that it conceived of its mark sometime "in the second half of 1998" but this period is irrelevant. Mere conception of the name is not enough to prove and establish use. In determining ownership of a trademark, the date of creation or invention of the mark is irrelevant. *AB Electrolux v. Bermil Indus. Corp.*, 481 F. Supp. 2d 325, 330 (S.D.N.Y. 2007) (emphasis added). The senior user is the one who is the first to use the mark in the United States – not just conceive of it. *MNI Mgmt. Inc. v. Wine King, LLC*, 542 F. Supp. 2d 389, 405 (D.N.J. 2008). Trademark rights grow out of use, not mere adoption. *Id.*

It is not disputed that by January 1999, Petitioner was already in business, continued to do business, and had acquired goodwill in its name in at least New York and New Jersey. *See* Exhibits A-15, A-16. Registrant has offered no evidence to support any claim that it is the senior user in any relevant geographic area. Petitioner has continued to operate its restaurant at the same location in Newark and under the same name since it opened in April 1996. Petitioner is therefore the senior user. The parties are also clearly in the same business and offer similar goods and services to the consuming public. Registrant's January 11, 2007 letter to Petitioner verifies the overlap of trade channels and the likelihood of confusion. Exhibit A-21.

**B. Likelihood of Confusion**

The existence of Registrant's mark (and subsequent registration) is likely to cause confusion or mistake with regard to Petitioner's pre-existing service mark. There can be no dispute that the terms "boi na brasa" and "boi na braza" are extremely similar. The respective marks are used for nearly identical services – the identification of restaurant goods and services for Brazilian-style churrascarian barbeque foods. Registrant has obtained a federal registration but it is the junior user to Terra Sul's use of its service mark in at least New Jersey and New York. Meanwhile, there is a likelihood of confusion that the average customer will be confused as to the source, affiliation or sponsorship of goods and services associated with these respective marks.

Under the federal Lanham Act, the following are a non-exclusive set of factors to determine "likelihood of confusion" between trademarks:<sup>2</sup>

- (1) the degree of similarity between the owner's mark and the alleged infringing mark;

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<sup>2</sup> Note that these factors typically arise and are applied in an infringement lawsuit, not an inter-parties proceeding before the Board.

- (2) the strength of the owner's mark;
- (3) the price of the goods and other factors indicative of the care and attention expected of consumers when making a purchase;
- (4) the length of time the defendant has used the mark without evidence of actual confusion arising;
- (5) the intent of the defendant in adopting the mark;
- (6) the evidence of actual confusion;
- (7) whether the goods, though not competing, are marketed through the same channels of trade and advertised through the same media;
- (8) the extent to which the targets of the parties' sales efforts are the same;
- (9) the relationship of the goods in the minds of consumers because of the similarity of function; and
- (10) other factors suggesting that the consuming public might expect the prior owner to manufacture a product in the defendant's market, or that he is likely to expand into that market.

*Primepoint, L.L.C. v. PrimePay, Inc.*, 545 F. Supp. 2d 426, 435 (D.N.J. 2008) (citing *Freedom Card Inc. v. JPMorgan Chase & Co.*, 432 F.3d 463, 471 (3d Cir. 2005)). Each factor must be weighed and balanced one against the other. *Id.*

1. Similarity of the Marks

The single most important factor in determining the likelihood of confusion is mark similarity. *A&H Sportswear, Inc. v. Victoria's Secret Stores, Inc.*, 237 F.3d 198, 210 (3d Cir.2000). As discussed above, there is no dispute that the marks at issue are similar. But for Registrant changing an "s" to a "z" the marks are identical. Misspellings do not make a word more distinctive. *See Miller Brewing Co. v. G. Heileman Brewing Co, Inc.*, 561 F.2d 75, 79 (7<sup>th</sup> Cir. 1977). Phonetically, the marks are identical. The marks also identify the same goods/services offered to the relevant public. When testing for similarity, the Board should ask "whether the labels create the same overall impression when viewed separately." *Primepoint*, 545 F. Supp. 2d at 435. Because the words are phonetically identical, are visually similar and

identify the exact same types of goods and services, the marks are virtually indistinguishable. As such, this factor heavily favors cancellation of Registrant's mark.

2. Strength of the Marks

To examine the strength of a mark, the Board is to evaluate (1) the respective marks' distinctiveness or conceptual strength and (2) commercial strength (factual evidence of marketplace recognition). *Primepoint*, 545 F. Supp. 2d at 437 (citing *Freedom Card v. JPMorgan Chase*, 432 F.3d 463, 472 (3d Cir. 2005)).

First the Board must classify the marks into one of the four categories among (1) arbitrary/fanciful, (2) suggestive, (3) descriptive, or (4) generic. Registrant's mark BOI NA BRAZA is at most descriptive and it is not incontestable. Registrant claims that the phrase "boi na braza" when translated from Portuguese to English is "Ox in ember" or "Ox on hot coal." Exhibit B, Interrogatory No. 1. Petitioner's service mark CHURRASCARIA BOI NA BRASA, when translated from Portuguese into English also means "Bar-B-Que ox" or "roasted over embers." Exhibit A, at page 38, lines 17-21.

Registrant, however, has admitted that the term "boi na braza" is well known and is often used in Brazil. Exhibit D, Interrogatory No. 31. It is therefore not a fanciful or arbitrary term. A word taken from a well-known foreign language, which is, itself, descriptive of a product, will be so considered when it is attempted to be registered as a trademark in the United States. *In re Northern Paper Mills*, 64 F.2d 998 (CCPA 1933). Registrant's mark BOI NA BRAZA is merely descriptive and lacks any showing of secondary meaning in the marketplace.

Additionally, Registrant has failed to produced any survey evidence that might support any claim that its mark has acquired distinctiveness through secondary meaning in a particular geographic area. Nor has Registrant offered any proof of the relevant public's understanding of the BOI NA BRAZA mark through dictionaries, newspapers or other publications. *In re*



*Northland Aluminum Prods., Inc.*, 777 F.2d 1556, 1559 (Fed. Cir. 1985) (“Evidence of the public’s understanding of the term may be obtained from any competent source, such as consumer surveys, dictionaries, newspapers and other publications.”) There is nothing in the record to support any claim by Registrant that its mark has achieved distinctiveness among the relevant public. Registrant’s mark is therefore a weak mark.

Conversely, Petitioner has set forth evidence throughout the record that its service mark is well known among the relevant public, at least among customers in New Jersey and New York. For example, Petitioner was specifically asked to cater an event at the Trump Taj Mahal Casino Resort in 1997. Exhibit A-16. More recently, The Village Voice (a popular trade publication based in New York) has identified Petitioner’s CHURRASCARIA BOI NA BRASA as the “Best Choice Churrascaria” restaurant in the area for 2006. Petitioner’s common law service mark has attained a level of notoriety within its geographic area.

3. Factors indicative of the care and attention expected of consumers.

Typically, the more sophisticated the consumer and the more care and attention that goes toward purchasing a product, the less it is likely that confusion will result. *Primepoint*, 545 F. Supp. 2d at 439. Professional buyers may be held to a higher standard of care than other buyers. *McNeil Nutritionals, LLC v. Heartland Sweetners, LLC*, 511 F.3d 350, 363-64 (3d Cir. 2007). In this case, however, the typical purchaser of the respective parties’ goods and services is not a sophisticated customer. The patrons of Petitioner’s restaurant are not professional buyers. It is safe to presume that Registrant would cater to a similar group of customers. There is also no evidence to suggest that a significant portion of the relevant customers would speak Portuguese. Most likely, to the average purchaser, the terms “Boi Na Brasa” and “Boi Na Braza” would be indistinguishable at first glance.

4. Length of time of use of the mark without evidence of actual confusion

Petitioner opened CHURRASCARIA BOI NA BRASA in April 1996 in Newark, New Jersey. Petitioner has subsequently acquired goodwill in this name in New Jersey and New York. Registrant did not open its BOI NA BRAZA restaurants until July 1999. Registrant has since opened identically-named restaurants in Texas, Ohio and Georgia. Petitioner, however, was unaware of the existence of Registrant (or Registrant's trademark registration) until January 2007. Petitioner is unaware of any direct confusion between the two restaurants. Registrant, however, has claimed there is actual confusion (but without providing any evidence of this alleged confusion). There has been over a decade of use by Petitioner of the "Boi Na Brasa" mark before this proceeding arose. The existence of and any allegations of actual confusion is better addressed under the sixth factor, *infra*.

5. Intent of the junior user in adopting the mark

Farid Saleh, the President and owner of Terra Sul, coined the name CHURRASCARIA BOI NA BRASA sometime in 1995 based on memories he had as a child of a butcher shop in Brazil. Exhibit A, at pages 38–39. Registrant claims to have chosen the BOI NA BRAZA name for its restaurant on or around July 1, 1999. Exhibit B, Interrogatory No. 16. Curiously, Registrant claims not to have known about the existence of Petitioner – or Petitioner's service mark – until January 19, 2007, upon receiving notice from Petitioner's counsel. Exhibit B, Interrogatory No. 19. (Even though it was Registrant that initially threatened Petitioner with litigation via a demand letter sent January 11, 2007. Exhibit A-21.) Registrant also claims that "boi na brasa" is well-known in Brazil and that they merely changed the "s" to a "z" to give the name more "distinctiveness." Exhibit B, Interrogatory No. 16.

Petitioner does not claim any malicious intent by Registrant in choosing the BOI NA BRAZA mark. However, the test is not simply "bad faith." The test is whether the junior user

conducted an adequate name search for other companies marketing similar goods and whether it followed through with an investigation if such companies were found. *Fisons Horticulture, Inc. v. Virogo Inds., Inc.*, 30 F.3d 466, 480 (3d Cir. 1994). Petitioner had an established restaurant in New Jersey by the time Registrant opened its restaurant in July 1999. Furthermore, by July 1999, Petitioner had already been advertising in the Brazilian Press (Exhibit A-15) and a simple corporate records search in 1998 would have indicated that “Churrascaria Boi Na Brasa Corp.” was incorporated in New Jersey as of March 28, 1996 (Exhibit A-1). Registrant could have avoided this dispute and any likelihood of confusion with Petitioner by conducting a reasonable investigation and then deciding to adopt a different business name and trademark. Registrant failed to do so. This factor favors Petitioner.

6. Any evidence of actual confusion

Petitioner is unaware of any instances of actual confusion between the marks. Actual confusion need not be shown to prevail. *Lois Sportswear, U.S.A., Inc. v. Levi Strauss & Co.*, 799 F.2d 867 (2d Cir. 1986). Registrant, however, has claimed various instances of actual confusion. In its answers to discovery, Registrant claims that “on several occasions, members of its staff at the Atlanta, Georgia and Dallas, Texas locations were approached by consumers claiming to have dined at Boi Na Braza’s restaurant in New Jersey.” Exhibit D, Interrogatory No. 35. Registrant also claims that the “instances of confusion occurred between the years 2003 and 2006 at the Atlanta, Georgia and Dallas, Texas locations of the Boi Na Braza restaurants.” *Id.*, Interrogatory No. 36. Registrant’s statements regarding the alleged instances of actual confusion are wholly unsupported by the evidence and not corroborated or verified by any evidence in the record. Nevertheless, given the similarity of the marks and the respective goods and services, confusion is almost certain to occur at some point. Petitioner will therefore be perpetually damaged by the continued federal registration of the BOI NA BRAZA mark. This is yet another

factor favoring cancellation.

7. Similar trade channels

As previously noted, the channels of trade for both Petitioner's and Registrant's respective businesses are nearly identical. Both parties operate churrascarian-style restaurants that serve Brazilian barbeque and related foods. Both parties advertise their restaurants in national publications and through the Internet. *See* Exhibit A-15. *See also* Exhibit B, Interrogatory No. 23. Registrant also claims to have an interest in opening a restaurant in New York in the future. *See* Exhibit D, Interrogatory No. 41. Petitioner's long-established restaurant in Newark, New Jersey is approximately five miles from the New York City. Any presence by Registrant in New York using the BOI NA BRAZA mark would confuse customers. Essentially, Registrant's claimed interest in New York would encroach on Petitioner's pre-established territory and physical trade channels.

8. Extent to which the targets of the parties' sales efforts are the same

Registrant contends that the "relevant public" consists of "members of the United States general public" as those who patronize its restaurant. Exhibit D, Interrogatory No. 28. Petitioner targets its advertising to similar individuals. The parties seek to offer their respective goods and services to a nearly identical customer base. The greater the similarity in advertising and marketing campaigns, the greater there is a likelihood of confusion between the marks. *Checkpoint System, Inc. v. Check Point Software Tech's, Inc.*, 269 F.3d 270, 288-89 (3d Cir. 2001). Both parties advertise on the Internet and through nationally-distributed print ads. Once again, because of the near exactitude in the marks and the targeted customers, there is a near certainty that customers would be confused. This factor favors Petitioner.

9. Relationship of the goods in the minds of consumers

The test is whether the goods are similar enough that a customer would assume they were

offered by the same source. *Primepoint*, 545 F. Supp. 2d at 445 (citing *Checkpoint*, 269 F.3d at 286). There is no need to split hairs here. Petitioner's goods and services are nearly identical to Registrant's goods and services. Both parties own and operate Brazilian-style churrascarian restaurants. Which means not only are both parties in the restaurant business, but they feature the same style of food and use nearly identical marks and target the same customer base. Accordingly, the average customer would have sufficient reason to assume the respective goods and services are offered by the same source.

Each of the likelihood of confusion factors favors the cancellation of Registrant's mark.

**C. Registrant's Mark is Merely Descriptive**

The mark BOI NA BRAZA is at most descriptive and not suggestive once translated from Portuguese into English. If the mark is eligible for protection as a trademark, it must therefore have acquired some level of secondary meaning among the relevant public. Registrant Boi Na Braza has not produced or provided any evidence of secondary meaning (no surveys, tests, polls or other evidence).

Registrant's only evidence of validity is the registration itself, but this is not alone sufficient proof of distinctiveness. Any presumption of validity afforded by a registration evaporates as soon as sufficient evidence of invalidity is presented. *Door Sys., Inc. v. Pro-Line Door Sys., Inc.*, 83 F.3d 169 (7<sup>th</sup> Cir. 1996). Petitioner has offered substantial evidence to rebut any presumption that Registrant is either the senior user or that Registrant's mark is distinctive and a proper identification of source. Registrant's mark BOI NA BRAZA is incapable of serving as a trademark and the registration should be cancelled.

The primary function of a trademark is to identify and distinguish goods. A merely descriptive mark cannot function as a true trademark without proof of secondary meaning. *See* J. Thomas McCarthy on Trademarks and Unfair Competition, 4<sup>th</sup> Ed. § 3:6 (citing *Proxite Prods.*,

*Inc. v. Bonnie Brite Prods. Corp.*, 206 F. Supp. 511, 134 U.S.P.Q. 122 (S.D.N.Y. 1962)). Registrant has provided no proof of secondary meaning. When asked to provide the basis for its contention that the mark “boi na brasa” is distinctive to the relevant public, Registrant merely cited to U.S. Reg. No. 2,534,608 (for BOI NA BRAZA). See Exhibit B, Interrogatory No. 15. This is the totality of Registrant’s evidence that its mark is distinctive. On its face, Registrant’s offer of proof is clearly insufficient to maintain any presumptions in its favor.

To the extent Registrant relies on the fact that BOI NA BRAZA is derived from a foreign language, this alone shall not overcome the mark’s status as “merely descriptive.” As noted above, a word taken from a well-known foreign language, which is, itself, descriptive of a product, will be so considered when it is attempted to be registered as a trademark in the United States. *In re Northern Paper Mills*, 64 F.2d 998 (CCPA 1933). Registrant has already admitted that the term “boi na brasa” is a well-known name in Brazil. Exhibit B, Interrogatory No. 16. Combining this admission with the fact that both parties serve Brazilian-style churrascarian food only reinforces the descriptive nature of the mark.

Nevertheless, Registrant believes that simply changing the letter “s” to a “z” transforms the mark into a distinctive mark. See Exhibit B, Interrogatory No. 16 (“The Matheus brothers changed the “s” to a “z” to give the name more distinctiveness”). Registrant is mistaken as to the effectiveness of a trivial change. An intentional misspelling of the term “Boi Na Brasa” does not add distinctiveness. Nor does it rise to the level of being a suggestive mark. It has long been held that mere intentional misspellings do not transform the status and validity of a mark. “Using the phonetic equivalent of a common descriptive word, i.e., misspelling it, is of no avail.” *Miller Brewing Co. v. G. Heileman Brewing Co., Inc.*, 561 F.2d 75, 79 (7<sup>th</sup> Cir. 1977) (“Lite” beer is not distinctive). See also *Kern v. WKQX Radio*, 529 N.E.2d 1149 (Ill. App. 1988) (“Maid to Order” as compared to “Made to Order”); *Pennzoil Co. v. Crown Central Petroleum Corp.*, 50

F. Supp. 891, 895 (D.C. Md. 1943) (valid trademark cannot be acquired by a misspelling).

The mark BOI NA BRAZA is not arbitrary or fanciful. It is not suggestive of the goods and services offered at Registrant's restaurant. It is a descriptive and, therefore, weak mark. Weak marks are afforded no protection absent evidence of secondary meaning. Given that Registrant is not the senior user and that its mark is at most descriptive of the goods and services it offers, the mark BOI NA BRAZA fails to properly serve as a trademark. This is yet another reason the registration should be cancelled.

## VI.

### SUMMARY AND CONCLUSION

According to the United States Patent and Trademark Office, a "trademark" comprises "any word, name, symbol, or device, or any combination, used, or intended to be used, in commerce to identify and distinguish the goods of one manufacturer or seller from goods manufactured or sold by others, and to indicate the source of the goods."<sup>3</sup>

Based on the definition of the word "trademark," it is apparent that the registration for BOI NA BRAZA should be cancelled. The term simply does not act as a trademark in that it fails to distinguish the goods (or services) of Registrant from the goods and services of Petitioner. The mark BOI NA BRAZA does not identify one source. If anything, the mark is more likely to identify Petitioner's goods and services in the minds of the relevant customer.

Registrant is not the senior user of the mark. Registrant's mark is also merely descriptive and lacks any evidence of secondary meaning. Furthermore, Registrant and Petitioner are in the same market, with similar goods and services, and with virtually identical marks. Registrant has also claimed instances of *actual* confusion by customers with Petitioner's goods and services.

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<sup>3</sup> <http://www.uspto.gov/web/offices/tac/tmfaq.htm#DefineTrademark> (last visited February 18, 2009).

The registration for BOI NA BRAZA is not incontestable and any presumptions afforded by the registration have been rebutted by Petitioner's evidence. In contrast, Registrant has wholly failed to offer any evidence in the record that its mark is distinctive or has acquired secondary meaning. Accordingly, the Board should cancel U.S. Reg. No. 2,534,608.

Date: February 25, 2009

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of "PETITIONER TERRA SUL CORPORATION'S TRIAL BRIEF" was served on the parties listed below, via First Class U.S. Mail on the 25<sup>th</sup> day of February, 2009.

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\_\_\_\_\_  
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Cancellation No. 92047056

*Terra Sul Corporation v. Boi Na Brasa, Inc.*

**EXHIBIT A**

Offered by Terra Sul Corporation

<p>1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD</p> <p>2 -----</p> <p>3 TERRA SUL CORPORATION a/k/a CHURRASCARIA BOI NA BRASA, 4 Petitioner, 5 v. CANCELLATION NO.: 92047056 6 BOI NA BRASA, INC., 7 Respondent.</p> <p>8 -----</p> <p>9</p> <p>10 Transcript of the deposition of FARID SALEH, 11 taken in the Law Offices of Simoes &amp; Monteiro, P.C., 12 83 Polk Street, Newark, New Jersey, on August 7, 2008 13 commencing at 10:01 a.m., held pursuant to Notice 14 before a Shorthand Reporter and Notary Public. 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 F. SALEH</p> <p>2 ZILDA BUZACK,</p> <p>3 called as the official interpreter in this</p> <p>4 matter, was duly sworn by a Notary Public</p> <p>5 of the State of New York to accurately and</p> <p>6 faithfully translate the questions propounded</p> <p>7 to the witness from English to Portuguese and</p> <p>8 answers given from Portuguese to English.</p> <p>9 FARID SALEH,</p> <p>10 having been duly sworn by a Notary Public</p> <p>11 of the State of New York, was examined and</p> <p>12 testified through an interpreter as follows:</p> <p>13 DIRECT EXAMINATION</p> <p>14 BY MR. CLARK:</p> <p>15 Q State your full name for the record.</p> <p>16 A Farid Saleh.</p> <p>17 Q State your current address for</p> <p>18 the record.</p> <p>19 A 148 Komorn Street, Apartment 3,</p> <p>20 Newark, New Jersey 07105.</p> <p>21 Q We're on the record now.</p> <p>22 Good morning, Farid.</p> <p>23 A Good morning.</p> <p>24 Q Do you understand why you</p> <p>25 were called here to testify today?</p>
<p>1 APPEARANCES:</p> <p>2</p> <p>3 PATTERSON &amp; SHERIDAN, LLP. Attorneys on behalf of the Petitioner 4 3040 Post Oak Boulevard Suite 1500 5 Houston, Texas 77056 (713) 623-4844 6 (713) 623-4846 Fax BY: DAVID L. CLARK, ESQ. 7 E-MAIL: Dclark@pattersonsheridan.com WEB: www.pattersonsheridan.com</p> <p>8</p> <p>9 PATTERSON &amp; SHERIDAN, LLP. Attorneys on behalf of the Petitioner 10 595 Shrewsbury Avenue Suite 100 11 Shrewsbury, New Jersey 07702 (732) 530-9404 12 (732) 530-9808 Fax BY: EAMON J. WALL, ESQ. 13 E-MAIL: Ewall@pattersonsheridan.com WEB: www.pattersonsheridan.com</p> <p>14</p> <p>15 THOMPSON &amp; KNIGHT, LLP. Attorneys on behalf of the Respondent 16 919 Third Avenue New York, New York 10022 17 (212) 751-3048 (212) 880-3238 Fax 18 BY: IRENE R. DUBOWY, ESQ., E-MAIL: irene.dubowy@tklaw.com</p> <p>19</p> <p>20 ALSO PRESENT:</p> <p>21 Zilda Buzack, Portuguese Interpreter 22 (917) 686-7071</p> <p>23</p> <p>24</p> <p>25 U.S. LEGAL SUPPORT, INC.</p>	<p>1 F. SALEH</p> <p>2 A Yes.</p> <p>3 Q What would that reason be?</p> <p>4 A The reasons that we have a</p> <p>5 restaurant. There's another restaurant. Our</p> <p>6 restaurant which has the name, excusing the name,</p> <p>7 Boi Na Brasa. And a while back, I received a</p> <p>8 letter that they wanted me to remove the name of</p> <p>9 my restaurant so I'm here to answer, to say that</p> <p>10 we've been around before them, to speak the truth.</p> <p>11 Q And Farid, do you understand that</p> <p>12 your testimony here today is to be taken as if</p> <p>13 you were in a courtroom before a judge and jury?</p> <p>14 A Yes.</p> <p>15 Q Okay. Farid, have you been</p> <p>16 deposed before?</p> <p>17 A That last time that we were here,</p> <p>18 does that count?</p> <p>19 Q Are you referring to the deposition</p> <p>20 in March?</p> <p>21 A Yes.</p> <p>22 Q Other than that deposition in March,</p> <p>23 have you ever been part of a deposition before?</p> <p>24 A No.</p> <p>25 Q Have you ever testified in a</p>

<p>5</p> <p>1 F. SALEH</p> <p>2 courtroom before?</p> <p>3 A No.</p> <p>4 Q Farid, how long have you lived in</p> <p>5 New Jersey?</p> <p>6 A Eighteen years.</p> <p>7 Q How long have you lived at your</p> <p>8 current address?</p> <p>9 A That I bought the house, eight</p> <p>10 years.</p> <p>11 Q Before you lived in New Jersey,</p> <p>12 where did you live?</p> <p>13 A Brazil.</p> <p>14 Q Farid, what is your current</p> <p>15 business or place of employment?</p> <p>16 A Boi Na Brasa on 70 Adams Street,</p> <p>17 Newark.</p> <p>18 Q How long have you been in this</p> <p>19 business?</p> <p>20 MS. DUBOWY: Objection, ambiguous.</p> <p>21 Q How long have you been in the</p> <p>22 restaurant business?</p> <p>23 A Since I arrived here I've worked in</p> <p>24 the restaurant business.</p> <p>25 Q How long have you worked for</p>	<p>7</p> <p>1 F. SALEH</p> <p>2 Churrascaria Boi Na Brasa Corp?</p> <p>3 A Yes.</p> <p>4 Q What was that role?</p> <p>5 A President.</p> <p>6 Q Did you have any other role</p> <p>7 in Churrascaria Boi Na Brasa Corp?</p> <p>8 A I was a president. Well, the</p> <p>9 beginning is difficult so we work with everything.</p> <p>10 Q Was Churrascaria Boi Na Brasa</p> <p>11 Corp officially incorporated?</p> <p>12 MS. DUBOWY: Objection.</p> <p>13 A Could you repeat the question?</p> <p>14 Q Sure. Was Churrascaria</p> <p>15 Boi Na Brasa Corp ever incorporated?</p> <p>16 A Yes, it was.</p> <p>17 Q In what state was Churrascaria</p> <p>18 Boi Na Brasa Corp incorporated?</p> <p>19 A New Jersey.</p> <p>20 Q Farid, do you know when Churrascaria</p> <p>21 Boi Na Brasa Corp was incorporated in New Jersey?</p> <p>22 A '96.</p> <p>23 MR. CLARK: I'd like to</p> <p>24 introduce Exhibit Number I.</p> <p>25 (Whereupon, a document was</p>
<p>6</p> <p>1 F. SALEH</p> <p>2 Boi Na Brasa?</p> <p>3 A Since 1996.</p> <p>4 Q Are you currently involved in any</p> <p>5 other businesses?</p> <p>6 A No.</p> <p>7 Q Who is the owner of Churrascaria</p> <p>8 Boi Na Brasa?</p> <p>9 MS. DUBOWY: Objection, ambiguous.</p> <p>10 A Terra Sul Corp.</p> <p>11 Q What is the address of Churrascaria</p> <p>12 Boi Na Brasa?</p> <p>13 A 70 Adams Street, Newark, New Jersey.</p> <p>14 Q How long has Terra Sul Corp</p> <p>15 owned Churrascaria Boi Na Brasa?</p> <p>16 A Since 1999.</p> <p>17 Q Is Terra Sul Corp the original</p> <p>18 owner of Churrascaria Boi Na Brasa?</p> <p>19 A No.</p> <p>20 Q Who is the original owner</p> <p>21 of Churrascaria Boi Na Brasa?</p> <p>22 A Churrascaria Boi Na Brasa Corp.</p> <p>23 Q What is your role in Terra Sul Corp?</p> <p>24 A President.</p> <p>25 Q Well, did you have a role with</p>	<p>8</p> <p>1 F. SALEH</p> <p>2 marked as Plaintiff's Exhibit Number I</p> <p>3 for identification as of this date.)</p> <p>4 Q Farid, have you seen this</p> <p>5 document before?</p> <p>6 A Yes.</p> <p>7 Q What is this document you have</p> <p>8 in front of you?</p> <p>9 A Certificate of Incorporation.</p> <p>10 Q According to this document,</p> <p>11 what is the date this certificate was filed?</p> <p>12 A On March 28, 1996.</p> <p>13 Q What is the name of the corporation</p> <p>14 incorporated by this certificate?</p> <p>15 A Churrascaria Boi Na Brasa Corp.</p> <p>16 Q And who is the registered</p> <p>17 agent on this certificate?</p> <p>18 A My name, Farid Saleh.</p> <p>19 Q Farid, as the registered agent</p> <p>20 for Churrascaria Boi Na Brasa Corp, what is</p> <p>21 the business that Churrascaria Boi Na Brasa</p> <p>22 Corp was in?</p> <p>23 MS. DUBOWY: Objection,</p> <p>24 'unbehoosed', leading.</p> <p>25 Can you rephrase it.</p>

<p style="text-align: right;">9</p> <p>1 F. SALEH</p> <p>2 MR. CLARK: I can.</p> <p>3 Q What business was Churrascaria</p> <p>4 Boi Na Brasa Corp involved in?</p> <p>5 A <b>Restaurant.</b></p> <p>6 MR. CLARK: I'll introduce</p> <p>7 Exhibit Number 2.</p> <p>8 MS. DUBOWY: Is this the</p> <p>9 document that you produced this week?</p> <p>10 MR. CLARK: No.</p> <p>11 MS. DUBOWY: Okay.</p> <p>12 When did you produce it?</p> <p>13 MR. CLARK: I believe we</p> <p>14 produced this document in May.</p> <p>15 (Whereupon, a document was</p> <p>16 marked as Plaintiff's Exhibit Number 2</p> <p>17 for identification as of this date.)</p> <p>18 Q Farid, have you seen this document,</p> <p>19 what's been marked as Exhibit 2 in front of you?</p> <p>20 A <b>Yes, I have.</b></p> <p>21 Q What is this document?</p> <p>22 A <b>This is an Authorization to Collect</b></p> <p>23 <b>Taxes in the State of New Jersey, isn't it?</b></p> <p>24 Q What is the entity authorized</p> <p>25 to collect taxes by this certificate?</p>	<p style="text-align: right;">11</p> <p>1 F. SALEH</p> <p>2 A <b>Yes.</b></p> <p>3 Q What is the date issued?</p> <p>4 A <b>June 4, 1996.</b></p> <p>5 Q Thank you.</p> <p>6 When did Churrascaria Boi Na Brasa</p> <p>7 first open for business?</p> <p>8 MS. DUBOWY: Objection, ambiguous.</p> <p>9 MR. CLARK: Go ahead, you can</p> <p>10 answer the question.</p> <p>11 MS. DUBOWY: Sorry, I think</p> <p>12 there are two companies and there are</p> <p>13 two Churrascarias, so to speak.</p> <p>14 When you ask the question you</p> <p>15 have to say which one you're referring to.</p> <p>16 Q How many Churrascaria Boi Na Brasa</p> <p>17 are there?</p> <p>18 A <b>Two, Boi Na Brasa. One,</b></p> <p>19 <b>Churrascaria Boi Na Brasa.</b></p> <p>20 Q To clarify, there is one</p> <p>21 restaurant called Churrascaria Boi Na Brasa?</p> <p>22 A <b>Yes.</b></p> <p>23 Q And when did that restaurant</p> <p>24 open for business?</p> <p>25 A <b>April of '96.</b></p>
<p style="text-align: right;">10</p> <p>1 F. SALEH</p> <p>2 A <b>Churrascaria Boi Na Brasa Corp.</b></p> <p>3 Q What is the effective date</p> <p>4 for collecting taxes by the certificate?</p> <p>5 A <b>April 15, 1996.</b></p> <p>6 Q When was this certificate issued?</p> <p>7 A <b>Would you repeat the question.</b></p> <p>8 Q Sure. When was this certificate</p> <p>9 issued?</p> <p>10 A <b>As it's here, it was issued on</b></p> <p>11 <b>April 15, 1996.</b></p> <p>12 Q If you could look at the bottom</p> <p>13 right where it says "date issued" on this</p> <p>14 document.</p> <p>15 MS. DUBOWY: Objection, leading.</p> <p>16 MR. CLARK: I haven't asked</p> <p>17 a question yet.</p> <p>18 MS. DUBOWY: I know where</p> <p>19 you're going.</p> <p>20 MR. CLARK: I'm asking him</p> <p>21 to look at the document.</p> <p>22 MS. DUBOWY: Okay.</p> <p>23 Q This document that you see in</p> <p>24 front of you, is there a column that states</p> <p>25 "date issued?"</p>	<p style="text-align: right;">12</p> <p>1 F. SALEH</p> <p>2 MR. CLARK: Thank you.</p> <p>3 I'd like to introduce</p> <p>4 Exhibit Number 3.</p> <p>5 (Whereupon, a multi-paged</p> <p>6 document was marked as Plaintiff's</p> <p>7 Exhibit Number 3 for identification</p> <p>8 as of this date.)</p> <p>9 Q Farid, have you seen this</p> <p>10 document before?</p> <p>11 MS. DUBOWY: Objection.</p> <p>12 Can you please lay a</p> <p>13 foundation before you start asking.</p> <p>14 MR. CLARK: I'm asking if</p> <p>15 he's seen the document before.</p> <p>16 MS. DUBOWY: Okay, but you're</p> <p>17 going to establish a foundation?</p> <p>18 MR. CLARK: Sure.</p> <p>19 A <b>Yes, I have.</b></p> <p>20 Q What is this document?</p> <p>21 A <b>This is an application that</b></p> <p>22 <b>we fill out to buy real estate.</b></p> <p>23 Q Why did you fill out an</p> <p>24 application to buy real estate?</p> <p>25 MS. DUBOWY: Objection,</p>

<p style="text-align: right;">13</p> <p>1 F. SALEH</p> <p>2 no foundation.</p> <p>3 A Because that time there was another</p> <p>4 restaurant where we have been till this day. The</p> <p>5 gentleman wanted to sell it so we went to fill</p> <p>6 out on the real estate application to buy the</p> <p>7 restaurant.</p> <p>8 Q Farid, when did you first decide</p> <p>9 to open a restaurant?</p> <p>10 A When we came to the U.S. we came</p> <p>11 to work and that was a dream we had, and we had</p> <p>12 worked for many years. I have worked as an</p> <p>13 employee for others and I saved some money and</p> <p>14 in '95, I started to put together documentation,</p> <p>15 and think about the type of business that I would</p> <p>16 like to have, and thank goodness in '96 was able</p> <p>17 to open it.</p> <p>18 Q Farid, this restaurant that you</p> <p>19 were thinking about putting together and getting</p> <p>20 documentation for in 1995, was this what later</p> <p>21 became Churrascaria Boi Na Brasa?</p> <p>22 MS. DUBOWY: Objection, leading.</p> <p>23 A Actually, the name Churrascaria</p> <p>24 Boi Na Brasa I came up with in '95 when I designed</p> <p>25 a logo for it.</p>	<p style="text-align: right;">15</p> <p>1 F. SALEH</p> <p>2 a place so we started to search for a place in</p> <p>3 Newark because we wanted to have an establishment</p> <p>4 in Newark, because we knew a lot of people around</p> <p>5 here, and then we found this restaurant that</p> <p>6 was located on 70 Adams Street. This gentleman</p> <p>7 wanted to sell it because he was already old and</p> <p>8 he wanted to return to Brazil, and then he asked</p> <p>9 for a price, we made an offer, he accepted --</p> <p>10 they accepted and then we started.</p> <p>11 Q Now Farid, what we've marked as</p> <p>12 Exhibit 3, is that an accurate reflection of</p> <p>13 your offer to purchase the real estate at</p> <p>14 70 Adams Street?</p> <p>15 A Yes.</p> <p>16 Q Did you sign this document</p> <p>17 as the perspective buyer?</p> <p>18 A Yes.</p> <p>19 Q Is your signature on this</p> <p>20 document we've marked as Exhibit 3?</p> <p>21 A Yes.</p> <p>22 Q When did you sign this document?</p> <p>23 A In February of '96.</p> <p>24 Q Farid, did you end up purchasing</p> <p>25 the real estate located at 70 Adams Street?</p>
<p style="text-align: right;">14</p> <p>1 F. SALEH</p> <p>2 MS. DUBOWY: Off the record.</p> <p>3 (Whereupon, an off-the-record</p> <p>4 discussion was held.)</p> <p>5 Q What is the first restaurant</p> <p>6 that you opened?</p> <p>7 A Churrascaria Boi Na Brasa.</p> <p>8 Q Now this document you see before</p> <p>9 you here, where is this real estate located?</p> <p>10 A On 70 Adams Street where we</p> <p>11 have been till this day.</p> <p>12 MR. CLARK: I'm going to</p> <p>13 introduce Exhibit Number 4.</p> <p>14 MS. DUBOWY: Counsel, are you</p> <p>15 going to lay a foundation for the next</p> <p>16 documents because you didn't lay a</p> <p>17 foundation for this one, for Exhibit</p> <p>18 Number 3.</p> <p>19 MR. CLARK: Off the record.</p> <p>20 (Whereupon, an off-the-record</p> <p>21 discussion was held.)</p> <p>22 Q Now if we can go back to Exhibit</p> <p>23 Number 3, Farid, when you decided to try to open</p> <p>24 a restaurant, what steps did you take?</p> <p>25 A First of all, we needed to have</p>	<p style="text-align: right;">16</p> <p>1 F. SALEH</p> <p>2 A Yes.</p> <p>3 Q Farid, when you purchased the</p> <p>4 real estate at 70 Adams Street, how did you make</p> <p>5 payments on that property?</p> <p>6 A Could you repeat the question.</p> <p>7 Q Sure. When you purchased the real</p> <p>8 estate at 70 Adams Street, how did you pay for it?</p> <p>9 A We paid with a check.</p> <p>10 Q The property located at 70 Adams</p> <p>11 Street, did you rent it or did you buy it?</p> <p>12 A No, I rented it.</p> <p>13 Q Did you have an agreement</p> <p>14 for this rent?</p> <p>15 A Yes.</p> <p>16 Q Is there a lease agreement?</p> <p>17 A Yes.</p> <p>18 MR. CLARK: I'd like to</p> <p>19 introduce this as Exhibit Number 4.</p> <p>20 (Whereupon, a document was</p> <p>21 marked as Plaintiff's Exhibit Number 4</p> <p>22 for identification as of this date.)</p> <p>23 Q Do you see the document we've</p> <p>24 entered as Exhibit Number 4; have you seen this</p> <p>25 document before?</p>

<p>17</p> <p>1 F. SALEH</p> <p>2 A Yes, I have.</p> <p>3 Q What is this document?</p> <p>4 A This document here is a contract</p> <p>5 for the company that owns the mall which is</p> <p>6 Newark Adams Association and they signed a</p> <p>7 lease with me; I signed it. It's renewable</p> <p>8 every five years.</p> <p>9 Q Did you sign a lease agreement</p> <p>10 with Newark Adams?</p> <p>11 A Yes.</p> <p>12 Q Was this lease for the property</p> <p>13 at 70 Adams Street, Store Number 4?</p> <p>14 MS. DUBOWY: Objection, leading.</p> <p>15 A Yes.</p> <p>16 Q Where was the property that</p> <p>17 you signed this lease agreement?</p> <p>18 A It's located on 70 Adams Street,</p> <p>19 Store Number 4, Newark.</p> <p>20 Q Now this exhibit in front of you,</p> <p>21 we only have the first two pages.</p> <p>22 Is there a lease agreement;</p> <p>23 did you sign a lease agreement?</p> <p>24 A Yes, I did.</p> <p>25 MS. DUBOWY: Objection.</p>	<p>19</p> <p>1 F. SALEH</p> <p>2 Are we talking here about the</p> <p>3 '96 lease or one of the renewals?</p> <p>4 Can you please rephrase it.</p> <p>5 MR. CLARK: Sure.</p> <p>6 Q The lease agreement that you claim</p> <p>7 to have signed in 1996, have you given a copy of</p> <p>8 that lease to any of the attorneys in this case?</p> <p>9 A In this case my attorney would say</p> <p>10 them.</p> <p>11 Q Have you given a copy of this</p> <p>12 1996 lease either to myself or to any of the</p> <p>13 other attorneys sitting at this table?</p> <p>14 A No.</p> <p>15 MS. DUBOWY: Please ask for this</p> <p>16 document. I believe it was called for.</p> <p>17 MR. CLARK: We've asked for the</p> <p>18 document as well and we haven't seen it,</p> <p>19 that's why I'm asking for it now because</p> <p>20 I'm confused just like you.</p> <p>21 MS. DUBOWY: All right. We</p> <p>22 would like to see this document.</p> <p>23 MR. CLARK: Is it possible we</p> <p>24 can get this document today?</p> <p>25 A I can do it either today, the latest</p>
<p>18</p> <p>1 F. SALEH</p> <p>2 This document is without</p> <p>3 a signature.</p> <p>4 MR. CLARK: That was my</p> <p>5 follow-up question.</p> <p>6 MS. DUBOWY: It's not</p> <p>7 admissible because it's not complete.</p> <p>8 MR. CLARK: I understand.</p> <p>9 I have a follow-up question</p> <p>10 for that.</p> <p>11 MS. DUBOWY: Okay.</p> <p>12 We'll see what happens.</p> <p>13 Q Is there a signed lease</p> <p>14 agreement in your possession?</p> <p>15 A Yes.</p> <p>16 Q Where is that lease agreement?</p> <p>17 A Okay. Each contractor, each</p> <p>18 agreement is valid for five years. We have at</p> <p>19 least two more agreements because they renewed,</p> <p>20 and we also got the adjacent store which we made</p> <p>21 the whole thing bigger so now we have Store</p> <p>22 Number 3 and Number 4.</p> <p>23 Q Have you given any of the attorneys</p> <p>24 in this case a copy of that lease?</p> <p>25 MS. DUBOWY: Objection, ambiguous.</p>	<p>20</p> <p>1 F. SALEH</p> <p>2 tomorrow because I have to look for it. All my</p> <p>3 documentation is in the attic in my house and I</p> <p>4 have to look for it.</p> <p>5 May I ask a question?</p> <p>6 MR. CLARK: Yes, go ahead.</p> <p>7 A When I gathered all the papers for</p> <p>8 this it might have gone together in a box that I</p> <p>9 provided. I'm not sure if I put it in or not.</p> <p>10 MR. CLARK: Okay. Off the record.</p> <p>11 (Whereupon, an off-the-record</p> <p>12 discussion was held.)</p> <p>13 MR. CLARK: While we were away,</p> <p>14 counsels had discussion about what was</p> <p>15 initially introduced as Exhibit Number 4.</p> <p>16 Counsel for petitioner is</p> <p>17 going to withdraw that exhibit for</p> <p>18 the moment until we get a more complete</p> <p>19 copy.</p> <p>20 In the meantime, we're going</p> <p>21 to skip ahead to Exhibit Number 5 for</p> <p>22 future documents.</p> <p>23 Q Farid, when you entered into a</p> <p>24 lease agreement with Newark Adams, as you have</p> <p>25 testified to, how did you pay them the rent?</p>

<p style="text-align: right;">21</p> <p>1 F. SALEH</p> <p>2 A We used to pay with check.</p> <p>3 We pay with checks till this day.</p> <p>4 Q Did you always pay Newark Adams</p> <p>5 with a check?</p> <p>6 A Yes.</p> <p>7 MR. CLARK: I'd like to</p> <p>8 introduce Exhibit Number 5.</p> <p>9 (Whereupon, a two-page</p> <p>10 document was marked as Plaintiff's</p> <p>11 Exhibit Number 5 for identification</p> <p>12 as of this date.)</p> <p>13 Q Farid, have you seen this</p> <p>14 document before?</p> <p>15 A Yes.</p> <p>16 Q What is this document?</p> <p>17 A It's a check that I used to</p> <p>18 pay my rent.</p> <p>19 Q Who is the payor on this check?</p> <p>20 A Myself.</p> <p>21 Q Who is "myself?"</p> <p>22 A Farid, Churrascaria Boi Na Brasa</p> <p>23 Corp.</p> <p>24 Q Who is the payee on this check?</p> <p>25 A It's Newark Adams Association.</p>	<p style="text-align: right;">23</p> <p>1 F. SALEH</p> <p>2 Q Farid, have you seen this</p> <p>3 document before?</p> <p>4 A Yes, I have.</p> <p>5 Q What is this document?</p> <p>6 A It's the insurance policy for</p> <p>7 my restaurant Churrascaria Boi Na Brasa.</p> <p>8 Q Who is the named insured</p> <p>9 on this insurance policy?</p> <p>10 A Churrascaria Boi Na Brasa.</p> <p>11 Q Is this the first insurance</p> <p>12 policy for Churrascaria Boi Na Brasa?</p> <p>13 A Yes.</p> <p>14 Q What is the policy period</p> <p>15 for this insurance agreement?</p> <p>16 A The policy is good for one year.</p> <p>17 Q When did this policy begin?</p> <p>18 A May 9, 1996.</p> <p>19 Q To when?</p> <p>20 A Until May 9, 1997, one year.</p> <p>21 Q Now from May 9, 1996 to May 9, 1997,</p> <p>22 was Churrascaria Boi Na Brasa open for business?</p> <p>23 MS. DUBOWY: Objection.</p> <p>24 Can you repeat the question,</p> <p>25 I didn't get it.</p>
<p style="text-align: right;">22</p> <p>1 F. SALEH</p> <p>2 Q When was this check drafted?</p> <p>3 A May of 1997.</p> <p>4 Q And what was the purpose</p> <p>5 of writing this check?</p> <p>6 A Payment for the monthly rent.</p> <p>7 Q Monthly rent for what?</p> <p>8 A For the restaurant Churrascaria</p> <p>9 Boi Na Brasa.</p> <p>10 Q Farid, as a restaurant owner,</p> <p>11 did you have to take out any insurance?</p> <p>12 A Yes.</p> <p>13 Q What kind of insurance policy</p> <p>14 did Churrascaria Boi Na Brasa Corp take out?</p> <p>15 A Liability.</p> <p>16 Q When did Churrascaria Boi Na</p> <p>17 Brasa Corp take out liability insurance?</p> <p>18 A We got the insurance the first</p> <p>19 year that we started to operate.</p> <p>20 MR. CLARK: I would like</p> <p>21 to introduce Exhibit Number 6.</p> <p>22 (Whereupon, a multi-page</p> <p>23 document was marked as Plaintiff's</p> <p>24 Exhibit Number 6 for identification</p> <p>25 as of this date.)</p>	<p style="text-align: right;">24</p> <p>1 F. SALEH</p> <p>2 MR. CLARK: That's fine.</p> <p>3 Q From May 9, 1996 to May 9, 1997,</p> <p>4 was Churrascaria Boi Na Brasa open for business?</p> <p>5 A Yes.</p> <p>6 MR. CLARK: I'd like to</p> <p>7 introduce Exhibit Number 7.</p> <p>8 (Whereupon, a one-page</p> <p>9 document was marked as Plaintiff's</p> <p>10 Exhibit Number 7 for identification</p> <p>11 as of this date.)</p> <p>12 Q Farid, have you seen this</p> <p>13 document before?</p> <p>14 A Yes.</p> <p>15 Q What is this document?</p> <p>16 A It's another insurance for a</p> <p>17 different year for the restaurant Churrascaria</p> <p>18 Boi Na Brasa.</p> <p>19 Q And what is the period?</p> <p>20 MS. DUBOWY: Objection.</p> <p>21 Q Was Churrascaria Boi Na Brasa</p> <p>22 open for business in 1997?</p> <p>23 A Yes, it was.</p> <p>24 Q Did Churrascaria Boi Na Brasa have</p> <p>25 to take out an insurance coverage for 1997?</p>



<p style="text-align: right;">25</p> <p>1 F. SALEH</p> <p>2 A Yes.</p> <p>3 Q This document in front of you,</p> <p>4 Exhibit Number 7, is this an accurate reflection</p> <p>5 of the insurance agreement for Churrascaria</p> <p>6 Boi Na Brasa in 1997?</p> <p>7 A From '97 to '98.</p> <p>8 Q What is the policy period for</p> <p>9 this insurance agreement?</p> <p>10 A October of '97 until October of '98.</p> <p>11 Q Who is the named insured for</p> <p>12 this policy?</p> <p>13 A Churrascaria Boi Na Brasa.</p> <p>14 Q And what is the address for the</p> <p>15 named insured?</p> <p>16 A 70 Adams Street, Store 4, Newark,</p> <p>17 New Jersey 07105; the location where we are to</p> <p>18 this day.</p> <p>19 MR. CLARK: Thank you.</p> <p>20 I'd like to introduce</p> <p>21 Exhibit Number 8.</p> <p>22 (Whereupon, a multiple-page</p> <p>23 document was marked as Plaintiff's</p> <p>24 Exhibit Number 8 for identification</p> <p>25 as of this date.)</p>	<p style="text-align: right;">27</p> <p>1 F. SALEH</p> <p>2 the insurance policy taken out by Churrascaria</p> <p>3 Boi Na Brasa in 1998?</p> <p>4 A Yes, up until '99.</p> <p>5 Q What is the policy period for</p> <p>6 this insurance policy?</p> <p>7 A May 22, 1998 until May 22, 1999.</p> <p>8 Q On May 22, 1998, who was the</p> <p>9 owner of Churrascaria Boi Na Brasa?</p> <p>10 A Churrascaria Boi Na Brasa Corp.</p> <p>11 Q On May 22, 1999, who was the</p> <p>12 owner of Churrascaria Boi Na Brasa?</p> <p>13 A Could you repeat the question.</p> <p>14 Q Sure. On May 22, 1999, who was</p> <p>15 the owner of Churrascaria Boi Na Brasa?</p> <p>16 A Can I explain something?</p> <p>17 Q Please.</p> <p>18 A Okay. From '98 -- actually '99,</p> <p>19 Churrascaria Boi Na Brasa Corp owned Churrascaria</p> <p>20 Boi Na Brasa. I was the president. In '99, we</p> <p>21 changed the corporation and I was the president,</p> <p>22 and then it went to Terra Sul. However, this</p> <p>23 insurance policy -- so the period on this policy</p> <p>24 is until the fifth month. So the next one</p> <p>25 probably -- so to tell you the truth, if I'm</p>
<p style="text-align: right;">26</p> <p>1 F. SALEH</p> <p>2 Q Farid, in 1998 did Churrascaria</p> <p>3 Boi Na Brasa take out an insurance policy?</p> <p>4 A Yes.</p> <p>5 Q What kind of insurance policy</p> <p>6 did Churrascaria Boi Na Brasa take out in 1998?</p> <p>7 A Liability.</p> <p>8 Q Now this document we've identified</p> <p>9 as Exhibit Number 8, have you seen this document</p> <p>10 before?</p> <p>11 A Yes, I have.</p> <p>12 Q What is this document?</p> <p>13 A Churrascaria Boi Na Brasa</p> <p>14 restaurant insurance from '98 to '99.</p> <p>15 Q Who is the named insured for</p> <p>16 this insurance policy?</p> <p>17 MS. DUBOWY: Objection, foundation.</p> <p>18 A Churrascaria Boi Na Brasa.</p> <p>19 Q In 1998, was Churrascaria</p> <p>20 Boi Na Brasa open for business?</p> <p>21 A Yes.</p> <p>22 Q In 1998, did Churrascaria</p> <p>23 Boi Na Brasa have an insurance policy?</p> <p>24 A Yes.</p> <p>25 Q Is this an accurate reflection of</p>	<p style="text-align: right;">28</p> <p>1 F. SALEH</p> <p>2 going to answer, now I would say that Churrascaria</p> <p>3 Boi Na Brasa Corp was the owner until '99 and as</p> <p>4 of 1999, we've created another corporation that</p> <p>5 became the owner and I was the president.</p> <p>6 Q And what was this corporation</p> <p>7 in 1999 that became the owner?</p> <p>8 A Terra Sul Corp.</p> <p>9 Q Thank you.</p> <p>10 In 1999, was Churrascaria</p> <p>11 Boi Na Brasa open for business?</p> <p>12 A Yes.</p> <p>13 Q Did Churrascaria Boi Na Brasa</p> <p>14 take out insurance in 1999?</p> <p>15 A Yes.</p> <p>16 Q What insurance did Churrascaria</p> <p>17 Boi Na Brasa take out in 1999?</p> <p>18 A Liability.</p> <p>19 MR. CLARK: I'd like to</p> <p>20 introduce Exhibit Number 9.</p> <p>21 (Whereupon, a multi-paged</p> <p>22 document was marked as Plaintiff's</p> <p>23 Exhibit Number 9 for identification</p> <p>24 as of this date.)</p> <p>25 Q Farid, I have placed before</p>

<p style="text-align: right;">29</p> <p>1 F. SALEH</p> <p>2 you Exhibit Number 9. Have you seen this</p> <p>3 document before?</p> <p>4 A Yes, I have.</p> <p>5 Q What is this document?</p> <p>6 A It's the Churrascaria Boi Na Brasa</p> <p>7 insurance from the year 1999 until the year 2000.</p> <p>8 Q Who is the named insured on this</p> <p>9 policy?</p> <p>10 A Churrascaria Boi Na Brasa.</p> <p>11 Q Is this an accurate reflection of</p> <p>12 the insurance policy taken out by Churrascaria</p> <p>13 Boi Na Brasa in 1999?</p> <p>14 A Yes.</p> <p>15 Q What is the policy period for</p> <p>16 this insurance policy?</p> <p>17 A June 14th, 1999 to June 14th, 2000.</p> <p>18 Q And from June 14th, 1999</p> <p>19 to June 14th, 2000, who was the owner of</p> <p>20 Churrascaria Boi Na Brasa?</p> <p>21 A Terra Sul Corp, having myself</p> <p>22 as a president.</p> <p>23 Q Thank you.</p> <p>24 Farid, did Churrascaria</p> <p>25 Boi Na Brasa Corp have a bank account?</p>	<p style="text-align: right;">31</p> <p>1 F. SALEH</p> <p>2 A Yes.</p> <p>3 Q Who is the owner of the bank</p> <p>4 account reflected on this document?</p> <p>5 A Churrascaria Boi Na Brasa Corp.</p> <p>6 Q What is the date of this document?</p> <p>7 A March 31, 1997.</p> <p>8 MR. CLARK: I'd like to</p> <p>9 introduce Exhibit Number 11.</p> <p>10 (Whereupon, a document</p> <p>11 consisting of two pages was marked</p> <p>12 as Plaintiff's Exhibit Number 11</p> <p>13 for identification as of this date.)</p> <p>14 Q Farid, in May 1997, did</p> <p>15 Churrascaria Boi Na Brasa Corp have a</p> <p>16 bank account?</p> <p>17 A Yes.</p> <p>18 Q Was that bank account a</p> <p>19 checking account?</p> <p>20 A It was a checking account.</p> <p>21 Q Now the document placed before you,</p> <p>22 Exhibit Number 11, have you seen this document</p> <p>23 before?</p> <p>24 A This bank statement here, yes.</p> <p>25 Q Is this document an accurate</p>
<p style="text-align: right;">30</p> <p>1 F. SALEH</p> <p>2 A Yes.</p> <p>3 Q When did Churrascaria</p> <p>4 Boi Na Brasa Corp open a bank account?</p> <p>5 A As soon as we opened the restaurant,</p> <p>6 1996, I assume.</p> <p>7 Q Did Churrascaria Boi Na</p> <p>8 Brasa Corp have a bank account in 1997?</p> <p>9 A Yes.</p> <p>10 Q Who did Churrascaria Boi Na Brasa</p> <p>11 Corp have a bank account with in 1997?</p> <p>12 A I'm not exactly sure but I</p> <p>13 think it was PNC Bank and Midlantic.</p> <p>14 MR. CLARK: I'd like to</p> <p>15 introduce Exhibit Number 10.</p> <p>16 (Whereupon, a multi-page</p> <p>17 document was marked as Plaintiff's</p> <p>18 Exhibit Number 10 for identification</p> <p>19 as of this date.)</p> <p>20 Q Farid, have you seen this</p> <p>21 document before?</p> <p>22 A This is a bank statement, isn't it?</p> <p>23 Q Is this an accurate reflection of</p> <p>24 the bank statements for Churrascaria Boi Na Brasa</p> <p>25 Corp?</p>	<p style="text-align: right;">32</p> <p>1 F. SALEH</p> <p>2 reflection of the bank statement for Churrascaria</p> <p>3 Boi Na Brasa Corp?</p> <p>4 A Yes.</p> <p>5 Q What is the date of this document?</p> <p>6 A April 30, 1997.</p> <p>7 Q Thank you. Farid, in 1996, who</p> <p>8 did you work for?</p> <p>9 A In 1996, I was working for</p> <p>10 Churrascaria Boi Na Brasa Corp. Actually, let me</p> <p>11 go back.</p> <p>12 First, I was working for a recycling</p> <p>13 company named Fiber Specialist and then when we</p> <p>14 opened Churrascaria Boi Na Brasa Corp. I started</p> <p>15 working for them.</p> <p>16 Q Farid, in 1996 did you pay</p> <p>17 income taxes?</p> <p>18 A Yes, I did.</p> <p>19 MR. CLARK: I'd like to</p> <p>20 introduce Exhibit Number 12.</p> <p>21 (Whereupon, a multiple-page</p> <p>22 document was marked as Plaintiff's</p> <p>23 Exhibit Number 12 for identification</p> <p>24 as of this date.)</p> <p>25 Q Farid, have you seen this</p>

<p style="text-align: right;">33</p> <p>1 F. SALEH</p> <p>2 document before?</p> <p>3 A Yes.</p> <p>4 Q What is this document?</p> <p>5 A It's a W2.</p> <p>6 Q What year was this W2?</p> <p>7 MS. DUBOWY: Objection, ambiguous.</p> <p>8 Q For what tax year is this W2?</p> <p>9 A 1996.</p> <p>10 Q Could you please turn to the</p> <p>11 page identified with a Bates label TS000023.</p> <p>12 A (Witness complies.)</p> <p>13 Q Who is the employee reflected</p> <p>14 by this document?</p> <p>15 A Who is the employer?</p> <p>16 Q Employee.</p> <p>17 A Farid Saleh, myself.</p> <p>18 Q Who is the employer?</p> <p>19 A Churrascaria Boi Na Brasa Corp.</p> <p>20 Q Is this an accurate reflection of</p> <p>21 the 1996 W2, Wage and Tax Statement for you?</p> <p>22 A Yes.</p> <p>23 Q Thank you.</p> <p>24 Farid, did you pay income taxes</p> <p>25 in 1997?</p>	<p style="text-align: right;">35</p> <p>1 F. SALEH</p> <p>2 A (Witness complies.)</p> <p>3 Q Have you seen this before?</p> <p>4 A Yes.</p> <p>5 Q What is this page?</p> <p>6 A W2 for the year of 1997.</p> <p>7 Q Is this an accurate reflection of</p> <p>8 the 1997 W2 that you filed with your income taxes?</p> <p>9 A Yes.</p> <p>10 Q Who is the employer reflected on</p> <p>11 this W2?</p> <p>12 A Churrascaria Boi Na Brasa Corp.</p> <p>13 Q Who is the employee reflected on</p> <p>14 this W2?</p> <p>15 A Myself, Farid Saleh.</p> <p>16 Q In 1997, was Churrascaria</p> <p>17 Boi Na Brasa open for business?</p> <p>18 A Yes.</p> <p>19 Q What kind of restaurant</p> <p>20 is Churrascaria Boi Na Brasa?</p> <p>21 A Brazilian food.</p> <p>22 Q What do you mean by "Brazilian</p> <p>23 food?"</p> <p>24 A The typical dishes from the state in</p> <p>25 Brazil and our main dish is bar-b-que, rodizio.</p>
<p style="text-align: right;">34</p> <p>1 F. SALEH</p> <p>2 A Yes.</p> <p>3 Q Who did you work for in 1997?</p> <p>4 A Churrascaria Boi Na Brasa Corp.</p> <p>5 MR. CLARK: I'd like to</p> <p>6 introduce Exhibit Number 13.</p> <p>7 (Whereupon, a multi-paged</p> <p>8 document was marked as Plaintiff's</p> <p>9 Exhibit Number 13 for identification</p> <p>10 as of this date and a brief recess</p> <p>11 was held.)</p> <p>12 Q Farid, in 1997 did you pay</p> <p>13 income taxes?</p> <p>14 A Yes.</p> <p>15 Q Who was your employer in 1997?</p> <p>16 A Churrascaria Boi Na Brasa Corp.</p> <p>17 Q This document in front of you,</p> <p>18 have you seen it before?</p> <p>19 A Yes.</p> <p>20 Q This would be Exhibit Number 13?</p> <p>21 A Yes.</p> <p>22 Q What is this document?</p> <p>23 A My 1997 income tax.</p> <p>24 Q Could you please turn to the</p> <p>25 page marked TS388.</p>	<p style="text-align: right;">36</p> <p>1 F. SALEH</p> <p>2 Q Has Churrascaria Boi Na Brasa always</p> <p>3 been a Brazilian style churrascarian restaurant?</p> <p>4 MS. DUBOWY: Objection, ambiguous.</p> <p>5 Q From 1996, has Churrascaria</p> <p>6 Boi Na Brasa always been a Brazilian</p> <p>7 style churrascarian restaurant?</p> <p>8 A Yes.</p> <p>9 Q In 1996, who operated</p> <p>10 Churrascaria Boi Na Brasa?</p> <p>11 A Could you repeat?</p> <p>12 Q Sure.</p> <p>13 In 1996, who operated</p> <p>14 Churrascaria Boi Na Brasa?</p> <p>15 A Churrascaria Boi Na Brasa Corp</p> <p>16 with myself as president, Farid Saleh.</p> <p>17 Q In 1996, in your role as the</p> <p>18 president, did you control the day-to-day</p> <p>19 operations of Churrascaria Boi Na Brasa?</p> <p>20 A Yes.</p> <p>21 Q Was it your responsibility</p> <p>22 to pay bills and invoices?</p> <p>23 A Yes.</p> <p>24 Q Would that include electric bills?</p> <p>25 A Yes.</p>

<p style="text-align: right;">37</p> <p><b>F. SALEH</b></p> <p>MR. CLARK: I'd like to introduce Exhibit Number 14. (Whereupon, a document consisting of two pages was marked as Plaintiff's Exhibit Number 14 for identification as of this date.)</p> <p>Q Farid, have you seen this document before?</p> <p>A Yes.</p> <p>Q What is this document?</p> <p>A It's a Churrascaria Boi Na Brasa Corp check to pay utility bills, expenses.</p> <p>Q Is this document an accurate reflection of a check to pay electric bills?</p> <p>A Yes.</p> <p>Q Who is the payor on this check?</p> <p>A Churrascaria Boi Na Brasa Corp.</p> <p>Q What is the date of this check?</p> <p>A June 26, 1996.</p> <p>Q Did you sign this check?</p> <p>A Yes.</p> <p>Q That is your signature on this document?</p> <p>MS. DUBOWY: Objection, being</p>	<p style="text-align: right;">39</p> <p><b>F. SALEH</b></p> <p>hometown, there was a butcher house which was called Boi Na Brasa, and I had that in mind.</p> <p>Once, I went with my father to shop there so I associated Bar-B-Que in a Brazilian restaurant in Brazil which is a traditional name so I put the name Boi Na Brasa.</p> <p>Q When did you decide to name your restaurant Churrascaria Boi Na Brasa?</p> <p>A We started to think about the idea in 1995.</p> <p>Q When did you formally decide on the name Churrascaria Boi Na Brasa?</p> <p>A In the end of 1995, we created the logo which is still used today but registered as a company correctly we started in 1996.</p> <p>Q Did anyone assist you in creating the name Churrascaria Boi Na Brasa?</p> <p>A At that time it was myself, my wife, two friends and my son's godfather is one of them, Paulo and his wife Marlsveny; and Roberto who created the logo, he was a designer. So this was the group at the time but it was my idea.</p> <p>Q In 1996, when you opened Churrascaria Boi Na Brasa, who else used the</p>
<p style="text-align: right;">38</p> <p><b>F. SALEH</b></p> <p>that there's two signatures.</p> <p>Q Is your signature on this check?</p> <p>A Yes.</p> <p>Q Who is the check made out to?</p> <p>A PSE&amp;G, the utility company for the State of New Jersey.</p> <p>Q When this check was written, was Churrascaria Boi Na Brasa open for business?</p> <p>A Yes.</p> <p>Q Thank you.</p> <p>What does Churrascaria Boi Na Brasa mean?</p> <p>A To me, it's my life.</p> <p>INTERPRETER: He wants to know what the meaning of the name.</p> <p>Q What does the name Churrascaria Boi Na Brasa mean in English?</p> <p>A Boi Na Brasa means Bar-B-Que ox. I don't know how you call it, roasted over embers, burning coal.</p> <p>Q Who created the name Churrascaria Boi Na Brasa?</p> <p>A I've heard this name Boi Na Brasa since I was a little kid. In Brazil, in my own</p>	<p style="text-align: right;">40</p> <p><b>F. SALEH</b></p> <p>name Boi Na Brasa in the restaurant business?</p> <p>A No one.</p> <p>Q In 1996, how did you inform people and customers that your restaurant Churrascaria Boi Na Brasa was open?</p> <p>A In those days since things were difficult, there wasn't a lot of money around, we made flyers to put on cars, things like that, neighborhood stores and also word of mouth.</p> <p>Q Did you advertise in local newspapers?</p> <p>A Actually, I think there was an article as soon as we opened the restaurant but it wasn't an article. It wasn't paid for but we started to advertise in newspaper after we had opened up the restaurant because we had money and we had a small ad.</p> <p>Q When did you first start advertising Churrascaria Boi Na Brasa?</p> <p>A In newspapers?</p> <p>Q Anywhere?</p> <p>A Well, in '96 we made the flyers to circulate around town. Newspapers, we started in 1997, I think. I'm not a hundred percent sure.</p>

<p style="text-align: right;">41</p> <p>1 F. SALEH</p> <p>2 Q Did you advertise with the</p> <p>3 Brazilian Press in 1997?</p> <p>4 A In 1997 we started with the</p> <p>5 newspapers, yes.</p> <p>6 Q You put an advertisement for</p> <p>7 Churrascaria Boi Na Brasa in the Brazilian Press?</p> <p>8 MS. DUBOWY: Objection, leading.</p> <p>9 Q In 1997, did Churrascaria Boi Na</p> <p>10 Brasa put an advertisement in local newspapers?</p> <p>11 A Yes.</p> <p>12 Q In 1997, which newspapers did</p> <p>13 Churrascaria Boi Na Brasa advertise in?</p> <p>14 A Brazilian Press. I'm not sure</p> <p>15 but also maybe Brazilian Voice.</p> <p>16 MR. CLARK: I'd like to</p> <p>17 introduce Exhibit Number 15.</p> <p>18 (Whereupon, a five-page</p> <p>19 document was marked as Plaintiff's</p> <p>20 Exhibit Number 15 for identification</p> <p>21 as of this date.)</p> <p>22 Now, this doesn't have a Bates</p> <p>23 number on it but it was produced earlier</p> <p>24 with a Bates number.</p> <p>25 Q Farid, have you seen this</p>	<p style="text-align: right;">43</p> <p>1 F. SALEH</p> <p>2 bottom.</p> <p>3 Q What is the date of this</p> <p>4 advertisement?</p> <p>5 A It's the week of 17 to 23 of</p> <p>6 September, 1997.</p> <p>7 Q Is this an accurate reflection</p> <p>8 of an advertisement you placed with the</p> <p>9 Brazilian Press in September of 1997?</p> <p>10 A Yes.</p> <p>11 Q Pages 3 and 4 of this document,</p> <p>12 have you seen these before?</p> <p>13 A Yes.</p> <p>14 Q Did Churrascaria Boi Na Brasa</p> <p>15 place an advertisement on either of these</p> <p>16 two pages?</p> <p>17 MS. DUBOWY: Objection, foundation.</p> <p>18 Q Did Churrascaria Boi Na Brasa</p> <p>19 place an advertisement in the Brazilian Press</p> <p>20 in 1999?</p> <p>21 MS. DUBOWY: Objection, leading.</p> <p>22 MR. CLARK: Let me rephrase.</p> <p>23 Q In 1999, did Churrascaria</p> <p>24 Boi Na Brasa advertise in newspapers?</p> <p>25 A Yes.</p>
<p style="text-align: right;">42</p> <p>1 F. SALEH</p> <p>2 document before?</p> <p>3 A Yes, I have. It's like I go back</p> <p>4 in time.</p> <p>5 Q You've seen this document before?</p> <p>6 A Yes, I have.</p> <p>7 MS. DUBOWY: Objection, there</p> <p>8 are two documents, two newspapers.</p> <p>9 MR. CLARK: Yes.</p> <p>10 MS. DUBOWY: So when you say</p> <p>11 "document" like which document?</p> <p>12 Q The first two pages, have you</p> <p>13 seen these before?</p> <p>14 A Yes.</p> <p>15 Q The first two pages of</p> <p>16 this document, what is it?</p> <p>17 A This is the cover page for</p> <p>18 Brazilian Press which is our community's</p> <p>19 newspaper.</p> <p>20 Q Is there an advertisement for</p> <p>21 Churrascaria Boi Na Brasa on either of these</p> <p>22 first two pages?</p> <p>23 A Yes.</p> <p>24 Q Where is this advertisement?</p> <p>25 A It's on this second page here,</p>	<p style="text-align: right;">44</p> <p>1 F. SALEH</p> <p>2 Q In 1999, did Churrascaria</p> <p>3 Boi Na Brasa ever advertise with the</p> <p>4 Brazilian Press?</p> <p>5 MS. DUBOWY: Objection, leading.</p> <p>6 Q What newspapers did Churrascaria</p> <p>7 Boi Na Brasa advertise with in 1999?</p> <p>8 A Brazilian Press.</p> <p>9 Q Are pages 3 and 4 of Exhibit 15</p> <p>10 an accurate reflection of the advertisements</p> <p>11 you placed with the Brazilian Press in 1999?</p> <p>12 MS. DUBOWY: Objection, ambiguous.</p> <p>13 You didn't establish time.</p> <p>14 Q On pages 3 and 4 of this document,</p> <p>15 is this an accurate representation of an</p> <p>16 advertisement placed by Churrascaria Boi Na Brasa?</p> <p>17 A Aren't you talking about</p> <p>18 pages 2 and 4?</p> <p>19 Q 3 and 4.</p> <p>20 A Could you repeat the</p> <p>21 question please.</p> <p>22 Q Sure.</p> <p>23 On pages 3 and 4 of this document,</p> <p>24 is the advertisement for Churrascaria Boi Na Brasa</p> <p>25 an accurate reflection of the advertisement in the</p>

<p style="text-align: right;">45</p> <p>1 F. SALEH</p> <p>2 Brazilian Press?</p> <p>3 A Yes.</p> <p>4 Q When did Churrascaria</p> <p>5 Boi Na Brasa place this ad?</p> <p>6 A This ad was on November 17, 1999.</p> <p>7 Q Was Churrascaria Boi Na Brasa</p> <p>8 open for business in 1999?</p> <p>9 A Yes.</p> <p>10 MS. DUBOWY: Objection, ambiguous.</p> <p>11 Q In 1999, was Churrascaria</p> <p>12 Boi Na Brasa open?</p> <p>13 A It was open, it had operations.</p> <p>14 Q In 1999, was Churrascaria</p> <p>15 Boi Na Brasa still operating as a restaurant?</p> <p>16 A Yes.</p> <p>17 Q Does Churrascaria Boi Na Brasa</p> <p>18 ever cater?</p> <p>19 A We've always done that.</p> <p>20 Q When did Churrascaria</p> <p>21 Boi Na Brasa first start catering?</p> <p>22 A Well, actually in '96 we had a big</p> <p>23 catering event. It was big for us because we</p> <p>24 were small and this opportunity came up. We did</p> <p>25 a catering event in Atlantic City.</p>	<p style="text-align: right;">47</p> <p>1 F. SALEH</p> <p>2 for Brazilian food catering.</p> <p>3 Q Is this an accurate reflection of</p> <p>4 the agreement between Churrascaria Boi Na Brasa</p> <p>5 and the Trump Taj Mahal?</p> <p>6 A For this event, yes.</p> <p>7 Q What was the date of this agreement?</p> <p>8 A According to this document in</p> <p>9 front of me, the date is June 7, 1996.</p> <p>10 Q Did Churrascaria Boi Na Brasa</p> <p>11 complete a catering event for the Trump Taj Mahal</p> <p>12 in June of 1996?</p> <p>13 A Yes.</p> <p>14 Q Where else has Churrascaria</p> <p>15 Boi Na Brasa catered events?</p> <p>16 MS. DUBOWY: Objection,</p> <p>17 failed to establish foundation.</p> <p>18 Q Has Churrascaria Boi Na Brasa</p> <p>19 ever catered to other people or entities?</p> <p>20 A Yes.</p> <p>21 Q Was this exclusively in New Jersey?</p> <p>22 A No. We do it in New Jersey.</p> <p>23 I've done it in New York and Connecticut.</p> <p>24 Q When did Churrascaria</p> <p>25 Boi Na Brasa cater an event in New York?</p>
<p style="text-align: right;">46</p> <p>1 F. SALEH</p> <p>2 INTERPRETER: The interpreter will</p> <p>3 correct herself on the record literally,</p> <p>4 "we did one in Atlantic City."</p> <p>5 Thank you.</p> <p>6 Q This catering event in</p> <p>7 Atlantic City, when was it?</p> <p>8 A I don't remember the exact date</p> <p>9 right now but it was '96 or into '97. It was</p> <p>10 right in the beginning.</p> <p>11 Q Who was this catering event for?</p> <p>12 A It was for the Taj Mahal Casino,</p> <p>13 Trump Taj Mahal.</p> <p>14 MR. CLARK: I'd like to</p> <p>15 enter Exhibit 16.</p> <p>16 (Whereupon, a one-page</p> <p>17 document was marked as Plaintiff's</p> <p>18 Exhibit Number 16 for identification</p> <p>19 as of this date.)</p> <p>20 Q Farid, have you seen this</p> <p>21 document before?</p> <p>22 A Yes.</p> <p>23 Q What is this document?</p> <p>24 A This is an agreement between</p> <p>25 Churrascaria Boi Na Brasa and Taj Mahal Casino</p>	<p style="text-align: right;">48</p> <p>1 F. SALEH</p> <p>2 A I'm not sure but I think</p> <p>3 three years ago.</p> <p>4 Q Do you remember who Churrascaria</p> <p>5 Boi Na Brasa catered to in New York approximately</p> <p>6 three years ago?</p> <p>7 A I'm not really sure but the thing</p> <p>8 is we got this catering event from this female.</p> <p>9 She was a relative of the Madrid Hotel in Wildwood</p> <p>10 in New Jersey and we did catering for her there</p> <p>11 during three years. And then they sold the hotel</p> <p>12 and we continued doing it for their family in</p> <p>13 New York, they had moved to New York.</p> <p>14 Q Thank you.</p> <p>15 From 1996 to the present time,</p> <p>16 has Churrascaria Boi Na Brasa ever shut down?</p> <p>17 A No.</p> <p>18 Q From 1996 to the present time,</p> <p>19 has Churrascaria Boi Na Brasa ever stopped doing</p> <p>20 business at its current location in New Jersey?</p> <p>21 A No.</p> <p>22 Q From 1996 to the present time,</p> <p>23 has Churrascaria Boi Na Brasa ever identified</p> <p>24 itself by a different name to the public?</p> <p>25 A No.</p>

<p style="text-align: right;">49</p> <p>1 <b>F. SALEH</b></p> <p>2 <b>MR. CLARK:</b> I'd like to</p> <p>3 introduce Exhibit Number 17.</p> <p>4 (Whereupon, a three-page</p> <p>5 document was marked as Plaintiff's</p> <p>6 Exhibit Number 17 for identification</p> <p>7 as of this date.)</p> <p>8 <b>Q</b> Farid, did Churrascaria Boi Na Brasa</p> <p>9 ever create a logo or design for its restaurant?</p> <p>10 <b>A</b> Could you repeat please.</p> <p>11 <b>Q</b> Sure.</p> <p>12 Did Churrascaria Boi Na Brasa</p> <p>13 ever create a logo or design for its restaurant?</p> <p>14 <b>MS. DUBOWY:</b> Objection, ambiguous.</p> <p>15 <b>Q</b> Did Churrascaria Boi Na Brasa</p> <p>16 ever create a logo for the restaurant?</p> <p>17 <b>MS. DUBOWY:</b> Objection, ambiguous.</p> <p>18 <b>Q</b> Is there a logo that identifies</p> <p>19 Churrascaria Boi Na Brasa the restaurant?</p> <p>20 <b>A</b> Yes, there is a logo.</p> <p>21 That's right here, I've created it.</p> <p>22 <b>Q</b> Who created the logo</p> <p>23 for Churrascaria Boi Na Brasa?</p> <p>24 <b>A</b> Roberto, this friend that I spoke</p> <p>25 about before. He's the one who made the drawing.</p>	<p style="text-align: right;">51</p> <p>1 <b>F. SALEH</b></p> <p>2 on the menu and after that it came out -- I don't</p> <p>3 know how you call that thing in the front of the</p> <p>4 restaurant that we put on, canopy.</p> <p>5 <b>Q</b> Are you referring to a sign?</p> <p>6 <b>A</b> Yes, the sign, a design with a logo</p> <p>7 and the name. I have pictures back home.</p> <p>8 <b>Q</b> When did Churrascaria Boi Na Brasa</p> <p>9 open?</p> <p>10 <b>A</b> April of 1996.</p> <p>11 <b>Q</b> When Churrascaria Boi Na Brasa</p> <p>12 opened in April of 1996, where was it located?</p> <p>13 <b>A</b> 70 Adams Street, Store Number 4,</p> <p>14 Newark, New Jersey. That's where we have been</p> <p>15 until this day.</p> <p>16 <b>Q</b> What is Terra Sul Corp?</p> <p>17 <b>A</b> The Terra Sul Corp is a</p> <p>18 corporation that I have opened and it</p> <p>19 owns Churrascaria Boi Na Brasa.</p> <p>20 <b>Q</b> When did Terra Sul Corp acquire</p> <p>21 ownership of Churrascaria Boi Na Brasa?</p> <p>22 <b>A</b> It was in 1999.</p> <p>23 <b>Q</b> Is Terra Sul a registered</p> <p>24 corporation?</p> <p>25 <b>A</b> Yes.</p>
<p style="text-align: right;">50</p> <p>1 <b>F. SALEH</b></p> <p>2 He wanted a model. Actually, at the time, this</p> <p>3 little guy here looks like me.</p> <p>4 <b>Q</b> When did Roberto draw this logo?</p> <p>5 <b>A</b> When he made the drawing?</p> <p>6 <b>Q</b> When did Roberto draw the logo?</p> <p>7 <b>A</b> '95, end of '95.</p> <p>8 <b>Q</b> 1995?</p> <p>9 <b>A</b> Yes.</p> <p>10 <b>Q</b> Now this exhibit I put before you,</p> <p>11 Exhibit 17, have you seen this document before?</p> <p>12 <b>A</b> This one?</p> <p>13 <b>Q</b> Yes.</p> <p>14 <b>A</b> Yes.</p> <p>15 <b>Q</b> What is this document?</p> <p>16 <b>A</b> This is the first drawing for the</p> <p>17 logo Churrascaria Boi Na Brasa logo. It's the</p> <p>18 one we use to this day.</p> <p>19 <b>Q</b> Has Churrascaria Boi Na Brasa</p> <p>20 ever changed this logo?</p> <p>21 <b>A</b> No.</p> <p>22 <b>Q</b> When did Churrascaria Boi Na Brasa</p> <p>23 first use this logo in association with its</p> <p>24 restaurant?</p> <p>25 <b>A</b> Since the day we open. It came out</p>	<p style="text-align: right;">52</p> <p>1 <b>F. SALEH</b></p> <p>2 <b>Q</b> Where is Terra Sul Corp registered?</p> <p>3 <b>A</b> The State of New Jersey.</p> <p>4 <b>MR. CLARK:</b> I'd like to</p> <p>5 introduce Exhibit Number 18.</p> <p>6 (Whereupon, a one-page</p> <p>7 document was marked as Plaintiff's</p> <p>8 Exhibit Number 18 for identification</p> <p>9 as of this date.)</p> <p>10 <b>Q</b> Have you seen this document before?</p> <p>11 <b>A</b> Yes.</p> <p>12 <b>Q</b> What is this document?</p> <p>13 <b>A</b> When Terra Sul was filed.</p> <p>14 <b>Q</b> What is this document?</p> <p>15 <b>A</b> It's the registration for</p> <p>16 Terra Sul Corp.</p> <p>17 <b>Q</b> And when was this registration</p> <p>18 filed?</p> <p>19 <b>A</b> January 19, 1999.</p> <p>20 <b>Q</b> Now is this page identified as</p> <p>21 TS1251, is that an accurate reflection of the</p> <p>22 Certificate of Incorporation for Terra Sul Corp?</p> <p>23 <b>A</b> Yes.</p> <p>24 <b>MS. DUBOWY:</b> Do you want to</p> <p>25 offer these separately since they</p>

<p style="text-align: right;">53</p> <p>1 F. SALEH</p> <p>2 are three different documents, do</p> <p>3 you mind doing that?</p> <p>4 MR. CLARK: We can do that.</p> <p>5 (Whereupon, an off-the-record</p> <p>6 discussion was held.)</p> <p>7 Q This document, Exhibit 18 which</p> <p>8 is identified as TS1251, is that an accurate</p> <p>9 reflection of the Certificate of Incorporation</p> <p>10 for Terra Sul Corp?</p> <p>11 A Yes.</p> <p>12 Q Who is the registered agent</p> <p>13 for Terra Sul Corp on this certificate?</p> <p>14 A Farid Saleh.</p> <p>15 MR. CLARK: I'm going to</p> <p>16 introduce Exhibit Number 19.</p> <p>17 (Whereupon, a two-page</p> <p>18 document was marked as Plaintiff's</p> <p>19 Exhibit Number 19 for identification</p> <p>20 as of this date.)</p> <p>21 Q Farid, in 2007 did you ever</p> <p>22 file any additional documents with the State</p> <p>23 of New Jersey regarding Terra Sul Corp?</p> <p>24 A Yes.</p> <p>25 Q What were these documents that</p>	<p style="text-align: right;">55</p> <p>1 F. SALEH</p> <p>2 actually filed it so he might be</p> <p>3 having a problem with the date</p> <p>4 because of that.</p> <p>5 Q In 2007, who was president of</p> <p>6 Terra Sul Corp?</p> <p>7 A Farid Saleh.</p> <p>8 Q And as president of Terra Sul</p> <p>9 Corp in '97, did you, personally file any</p> <p>10 documents with the State of New Jersey on</p> <p>11 behalf of Terra Sul?</p> <p>12 A Yes.</p> <p>13 Q What would these documents be?</p> <p>14 A It was Alternative Name</p> <p>15 Registration.</p> <p>16 Q When did you file this Alternative</p> <p>17 Name Registration with the State of New Jersey?</p> <p>18 A February 18, 2007.</p> <p>19 Q In February of 2007, why did you</p> <p>20 file a Registration of Alternative Name with the</p> <p>21 State of New Jersey?</p> <p>22 A Well, we received a letter in</p> <p>23 January. We received a letter from the lawyers</p> <p>24 representing this other company. They wanted</p> <p>25 me to close my business, remove the name and</p>
<p style="text-align: right;">54</p> <p>1 F. SALEH</p> <p>2 you filed with the State of New Jersey?</p> <p>3 A It was Registration Alternative.</p> <p>4 Q Is there an alternative name for</p> <p>5 Terra Sul Corp?</p> <p>6 A Yes.</p> <p>7 Q What would that alternative name be?</p> <p>8 A Churrascaria Boi Na Brasa.</p> <p>9 Q Did you file a Registration of</p> <p>10 Alternate Name with the State of New Jersey?</p> <p>11 A Yes.</p> <p>12 Q When did you file a Registration of</p> <p>13 Alternate Name with the State of New Jersey for</p> <p>14 the Terra Sul Corp?</p> <p>15 A January 18, 2007.</p> <p>16 Q Can you please repeat that date.</p> <p>17 A Why don't you repeat the</p> <p>18 question then, please.</p> <p>19 Q Sure.</p> <p>20 What day did you, as president of</p> <p>21 Terra Sul Corp, file a Registration of Alternative</p> <p>22 Name with the State of New Jersey?</p> <p>23 MS. DUBOWY: Objection,</p> <p>24 assuming facts not in evidence.</p> <p>25 We don't know he was the one who</p>	<p style="text-align: right;">56</p> <p>1 F. SALEH</p> <p>2 my web site. And I was afraid so I came here</p> <p>3 to Fausto, to my attorney, and I started to</p> <p>4 do things, to gather evidence to see what was</p> <p>5 going on. I wanted to show that my company</p> <p>6 was registered, that everything was correct</p> <p>7 because my restaurant is very important to me</p> <p>8 and for my family.</p> <p>9 Q What restaurants does Terra Sul Corp</p> <p>10 presently own?</p> <p>11 A Churrascaria Boi Na Brasa.</p> <p>12 Q Where is that restaurant located?</p> <p>13 A 70 Adams Street, stores number 3</p> <p>14 and 4 in Newark, New Jersey.</p> <p>15 MR. CLARK: I'll introduce</p> <p>16 Exhibit Number 20.</p> <p>17 (Whereupon, a one-page</p> <p>18 document was marked as Plaintiff's</p> <p>19 Exhibit Number 20 for identification</p> <p>20 as of this date.)</p> <p>21 Q Farid, does Terra Sul Corp</p> <p>22 collect taxes in New Jersey?</p> <p>23 A Yes.</p> <p>24 Q Is there any document that</p> <p>25 authorizes Terra Sul Corp to collect taxes</p>



<p style="text-align: right;">57</p> <p><b>F. SALEH</b></p> <p>1 in the State of New Jersey?</p> <p>2 <b>A To collect or to pay?</b></p> <p>3 <b>Q To collect.</b></p> <p>4 <b>A I don't understand the question.</b></p> <p>5 <b>Q Has the State of New Jersey</b></p> <p>6 <b>certified Terra Sul Corp with authority to</b></p> <p>7 <b>collect taxes on behalf of the State of</b></p> <p>8 <b>New Jersey?</b></p> <p>9 <b>A Yes.</b></p> <p>10 <b>Q I have placed before you Exhibit</b></p> <p>11 <b>Number 20. Have you seen this document before?</b></p> <p>12 <b>A Yes.</b></p> <p>13 <b>Q What is this document?</b></p> <p>14 <b>A State of New Jersey Tax</b></p> <p>15 <b>Authorization.</b></p> <p>16 <b>Q Is this document an accurate</b></p> <p>17 <b>reflection of the Certificate of Authority for</b></p> <p>18 <b>Terra Sul Corp to collect Sales and Use Tax in</b></p> <p>19 <b>New Jersey?</b></p> <p>20 <b>A Yes.</b></p> <p>21 <b>Q When did Terra Sul Corp acquire</b></p> <p>22 <b>authority to collect taxes in the State of</b></p> <p>23 <b>New Jersey?</b></p> <p>24 <b>A April 1, 1999.</b></p>	<p style="text-align: right;">59</p> <p><b>F. SALEH</b></p> <p>1 <b>Q Do you have any personal connection</b></p> <p>2 <b>to this Boi Na Braza restaurant, Boi Na Braza with</b></p> <p>3 <b>a Z?</b></p> <p>4 <b>A No.</b></p> <p>5 <b>Q Does Terra Sul Corp have any</b></p> <p>6 <b>connection to this Braza restaurant, Braza</b></p> <p>7 <b>with a Z?</b></p> <p>8 <b>A No.</b></p> <p>9 <b>Q Do you, personally, have any</b></p> <p>10 <b>business associations with this Boi Na Braza</b></p> <p>11 <b>restaurant, Braza with a Z?</b></p> <p>12 <b>A No.</b></p> <p>13 <b>Q Do you own or operate any</b></p> <p>14 <b>restaurants in Texas?</b></p> <p>15 <b>A No.</b></p> <p>16 <b>Q Do you own or operate any</b></p> <p>17 <b>restaurants in Ohio?</b></p> <p>18 <b>A No.</b></p> <p>19 <b>Q Do you own or operate any</b></p> <p>20 <b>restaurants in Georgia?</b></p> <p>21 <b>A No.</b></p> <p>22 <b>Q How did you first learn about</b></p> <p>23 <b>this Boi Na Braza restaurant, Braza with a Z?</b></p> <p>24 <b>A It was when we received the letter.</b></p>
<p style="text-align: right;">58</p> <p><b>F. SALEH</b></p> <p>1 <b>Q Does Churrascaria Boi Na Brasa</b></p> <p>2 <b>have a web site?</b></p> <p>3 <b>A Yes.</b></p> <p>4 <b>Q What is the domain name for this web</b></p> <p>5 <b>site?</b></p> <p>6 <b>A Www.boinabrassa.com.</b></p> <p>7 <b>Q Who owns this domain name?</b></p> <p>8 <b>A I do, Farid Saleh.</b></p> <p>9 <b>Q How long have you owned this</b></p> <p>10 <b>domain name?</b></p> <p>11 <b>A I'm not really sure. Since 2000 or</b></p> <p>12 <b>2001 when they started with the whole internet</b></p> <p>13 <b>thing up until this day.</b></p> <p>14 <b>Q Do you advertise for</b></p> <p>15 <b>Churrascaria Boi Na Brasa on this web site?</b></p> <p>16 <b>A Yes.</b></p> <p>17 <b>Q Who is Boi Na Braza, Braza with a Z?</b></p> <p>18 <b>A I found out about this other Boi Na</b></p> <p>19 <b>Brasa that there was a similar one when I got this</b></p> <p>20 <b>letter in January of 2007.</b></p> <p>21 <b>Q When is the first time you heard of</b></p> <p>22 <b>a restaurant called Boi Na Braza, Braza with a Z?</b></p> <p>23 <b>A When I received the letter from</b></p> <p>24 <b>their attorneys.</b></p>	<p style="text-align: right;">60</p> <p><b>F. SALEH</b></p> <p>1 <b>This letter was from some lawyers. I think they</b></p> <p>2 <b>were from Texas. And as I said before, they</b></p> <p>3 <b>wanted us to close our business because they</b></p> <p>4 <b>have rights.</b></p> <p>5 <b>Q When did you receive this</b></p> <p>6 <b>letter from these Texas lawyers?</b></p> <p>7 <b>A It was in the beginning of</b></p> <p>8 <b>January 2007.</b></p> <p>9 <b>MR. CLARK: I would like to</b></p> <p>10 <b>introduce Exhibit Number 21.</b></p> <p>11 <b>(Whereupon, a four-page</b></p> <p>12 <b>document was marked as Plaintiff's</b></p> <p>13 <b>Exhibit Number 21 for identification</b></p> <p>14 <b>as of this date.)</b></p> <p>15 <b>A That's a letter.</b></p> <p>16 <b>Q Farid, have you seen this</b></p> <p>17 <b>document before?</b></p> <p>18 <b>A Yes, I have.</b></p> <p>19 <b>Q What is this document?</b></p> <p>20 <b>A That's a letter they sent us.</b></p> <p>21 <b>That's where they said that they wanted us --</b></p> <p>22 <b>that's why I spoke with my lawyer about this.</b></p> <p>23 <b>Q What is the date on this document?</b></p> <p>24 <b>A January 11th, 2007.</b></p>

<p style="text-align: right;">61</p> <p>1 F. SALEH</p> <p>2 Q To the best of your recollection,</p> <p>3 is this letter a full and complete copy of the</p> <p>4 letter you received from Thompson &amp; Knight on</p> <p>5 January 11th, 2007?</p> <p>6 A Yes.</p> <p>7 Q What was your reaction when</p> <p>8 you received this letter?</p> <p>9 A I was surprised with it, afraid.</p> <p>10 That's why I contacted a lawyer that time, for</p> <p>11 some guidance.</p> <p>12 Q How did you feel when you</p> <p>13 received this letter?</p> <p>14 A That someone wanted to take</p> <p>15 away my whole life's work here.</p> <p>16 Q Could you please read for the</p> <p>17 record the second sentence of the first</p> <p>18 paragraph of this letter.</p> <p>19 MS. DUBOWY: Is he</p> <p>20 going to read in English?</p> <p>21 MR. CLARK: He can read it</p> <p>22 back to her and she can translate it.</p> <p>23 MS. DUBOWY: Oh.</p> <p>24 A Where shall I read?</p> <p>25 MR. CLARK: Off the record.</p>	<p style="text-align: right;">63</p> <p>1 F. SALEH</p> <p>2 A Would you repeat again, please.</p> <p>3 Q Yes or no?</p> <p>4 A Repeat the sentence.</p> <p>5 MS. DUBOWY: I believe he</p> <p>6 wants you to repeat the sentence</p> <p>7 so he can follow.</p> <p>8 Q On July 19, 1999, was Churrascaria</p> <p>9 Boi Na Brasa open for business?</p> <p>10 A Yes, it was.</p> <p>11 Q Was your restaurant Churrascaria</p> <p>12 Boi Na Brasa open for business before July 19,</p> <p>13 1999?</p> <p>14 A Yes, we started in 1996.</p> <p>15 Q Did you advertise through your</p> <p>16 restaurant Churrascaria Boi Na Brasa before</p> <p>17 July 19, 1999?</p> <p>18 A Yes.</p> <p>19 Q After you received this letter,</p> <p>20 what did you do?</p> <p>21 A I brought it to my attorney here</p> <p>22 and he referred me to Eamon, and we're here to</p> <p>23 this day to try and find a solution to this</p> <p>24 problem.</p> <p>25 Q Did you take any legal action</p>
<p style="text-align: right;">62</p> <p>1 F. SALEH</p> <p>2 (Whereupon, an off-the-record</p> <p>3 discussion was held.)</p> <p>4 A You talking about the first</p> <p>5 paragraph?</p> <p>6 Q First paragraph second sentence.</p> <p>7 Would it be a correct recitation</p> <p>8 of this document to state that in the second</p> <p>9 sentence:</p> <p>10 "The Boi Na Brasa mark has been in</p> <p>11 use at least since July 19, 1999 and the Boi Na</p> <p>12 Brasa and design mark has been in use at least</p> <p>13 since July 7th, 2000."</p> <p>14 Is that a correct recitation of</p> <p>15 that sentence?</p> <p>16 A But I didn't know anything about</p> <p>17 them. I only found out that they existed on</p> <p>18 January 11th, '07.</p> <p>19 Q Is that a correct recitation of that</p> <p>20 sentence?</p> <p>21 A In my opinion, for me Boi Na Brasa</p> <p>22 is with an S.</p> <p>23 Q I understand.</p> <p>24 Yes or no, is that a</p> <p>25 correct recitation of that sentence?</p>	<p style="text-align: right;">64</p> <p>1 F. SALEH</p> <p>2 against the people that drafted this letter?</p> <p>3 A The only thing we're doing here</p> <p>4 with the attorneys. I don't know who the owner</p> <p>5 of the restaurant is. I don't know anything</p> <p>6 about that.</p> <p>7 MS. DUBOWY: Can I have a</p> <p>8 short recess, like ten minutes.</p> <p>9 (Whereupon, a brief recess</p> <p>10 was taken.)</p> <p>11 Q Farid, after you received this</p> <p>12 letter in January of 2007, did you take any</p> <p>13 legal action?</p> <p>14 A As I told you, I contacted the</p> <p>15 attorneys and that's what we are here doing.</p> <p>16 Q Are you referring to the</p> <p>17 cancellation proceeding?</p> <p>18 MS. DUBOWY: Objection, leading.</p> <p>19 Q What is it that we're doing here</p> <p>20 today?</p> <p>21 A We're requesting cancellation</p> <p>22 for their brand name because we were working</p> <p>23 before them. We were around before them.</p> <p>24 Q When did you seek to cancel</p> <p>25 their brand name, as you say?</p>

<p style="text-align: right;">65</p> <p>1 F. SALEH</p> <p>2 A After I got this news, I contacted</p> <p>3 the lawyers and then we started immediately</p> <p>4 after receiving the letter, on the first week</p> <p>5 we started.</p> <p>6 Q Farid, to the best of your</p> <p>7 knowledge, has Boi Na Brasa, Brasa with a Z,</p> <p>8 ever opened a restaurant in New Jersey?</p> <p>9 A No.</p> <p>10 Q To the best of your knowledge,</p> <p>11 has Boi Na Brasa, Brasa with a Z, ever opened</p> <p>12 a restaurant in New York?</p> <p>13 A No.</p> <p>14 Q Are you aware of any advertisements</p> <p>15 by Boi Na Brasa, Brasa with a Z, in New Jersey?</p> <p>16 A No.</p> <p>17 Q Are you aware of any advertisements</p> <p>18 by Boi Na Brasa, Brasa with a Z, in New York?</p> <p>19 A No.</p> <p>20 Q To the best of your knowledge,</p> <p>21 who was the first to use the term Boi Na Brasa</p> <p>22 anywhere in the United States?</p> <p>23 MS. DUBOWY: Objection, ambiguous.</p> <p>24 Q To the best of your knowledge, who</p> <p>25 is the first to use the term Boi Na Brasa, Brasa</p>	<p style="text-align: right;">67</p> <p>1 F. SALEH</p> <p>2 Corp or Gullas Corp use the term Brasa with a Z</p> <p>3 or an S, to identify a restaurant located in</p> <p>4 New Jersey?</p> <p>5 A No.</p> <p>6 Q What does the term Boi Na Brasa</p> <p>7 mean in English, Brasa with an S?</p> <p>8 A Ember.</p> <p>9 Q What does the term Boi Na Brasa</p> <p>10 mean in English, Brasa with a Z?</p> <p>11 A The correct way to write Brasa</p> <p>12 is with an S because S sounds like Z when it's</p> <p>13 between two vowels. So Brasa with an S is what</p> <p>14 ember is and Brasa with a Z which is used here</p> <p>15 with a Z, is a slang such as I came from Brasa.</p> <p>16 I came from Brazil; these slippers come from</p> <p>17 Brasa. A lot of things they use the term Brasa</p> <p>18 for; where are you from, I'm from Brasa.</p> <p>19 Q Has any customer of yours ever</p> <p>20 asked you about a Boi Na Brasa restaurant in</p> <p>21 Texas?</p> <p>22 A No.</p> <p>23 Q Has any customer of yours ever</p> <p>24 asked you about a Boi Na Brasa restaurant in Ohio?</p> <p>25 A No.</p>
<p style="text-align: right;">66</p> <p>1 F. SALEH</p> <p>2 with a Z or an S, anywhere in the United States?</p> <p>3 A Me, Farid.</p> <p>4 Q Does anyone other than Terra Sul</p> <p>5 currently use the term Boi Na Brasa, Brasa with</p> <p>6 an S or with a Z, to identify a restaurant located</p> <p>7 in New Jersey?</p> <p>8 A Would you repeat the question,</p> <p>9 please.</p> <p>10 Q Sure.</p> <p>11 Does anyone other than Terra Sul</p> <p>12 currently use the term Boi Na Brasa with a Z or</p> <p>13 with an S, to identify a restaurant located in</p> <p>14 New Jersey?</p> <p>15 A Yes.</p> <p>16 Q Who else uses the term Boi Na Brasa?</p> <p>17 A Gullas Corp uses it who owns Boi Na</p> <p>18 Brasa Bar and Grill, and I'm also the president</p> <p>19 for that restaurant.</p> <p>20 MS. DUBOWY: Did he say</p> <p>21 restaurant or corporation?</p> <p>22 A It's a corporation.</p> <p>23 INTERPRETER: It's the</p> <p>24 interpreter's mistake.</p> <p>25 Q Does anyone other than Terra Sul</p>	<p style="text-align: right;">68</p> <p>1 F. SALEH</p> <p>2 Q Has any customer of yours ever asked</p> <p>3 you about a Boi Na Brasa restaurant in Georgia?</p> <p>4 A No.</p> <p>5 Q Now you've testified earlier today,</p> <p>6 Churrascaria Boi Na Brasa has catered to New York,</p> <p>7 is that correct?</p> <p>8 A Yes.</p> <p>9 Q Have you ever considered opening</p> <p>10 up a Boi Na Brasa restaurant in New York?</p> <p>11 A Yes, I have.</p> <p>12 Q Does Churrascaria Boi Na Brasa</p> <p>13 have customers that reside in New York?</p> <p>14 A Uh-hmm, for sure.</p> <p>15 Q Has any New York publication ever</p> <p>16 written a review of Churrascaria Boi Na Brasa?</p> <p>17 A Yes.</p> <p>18 MR. CLARK: I'd like to</p> <p>19 introduce Exhibit Number 22.</p> <p>20 MS. DUBOWY: Was this produced?</p> <p>21 MR. CLARK: That was given</p> <p>22 to your counsel the day that they</p> <p>23 sent the letter.</p> <p>24 MS. DUBOWY: But it</p> <p>25 was not produced.</p>

<p style="text-align: right;">69</p> <p>1 F. SALEH</p> <p>2 MR. CLARK: It's been produced,</p> <p>3 it just didn't have a Bates number on it.</p> <p>4 It was produced even before discovery</p> <p>5 started. They have an e-mail from</p> <p>6 January 2007 attached to that.</p> <p>7 MS. DUBOWY: All right.</p> <p>8 (Whereupon, a seven-page</p> <p>9 document was marked as Plaintiff's</p> <p>10 Exhibit Number 22 for identification</p> <p>11 as of this date.)</p> <p>12 Q Farid, have you seen this</p> <p>13 document before?</p> <p>14 A Yes, I have.</p> <p>15 Q What is the Village Voice?</p> <p>16 A It's a small newspaper published</p> <p>17 in New York. It's also for the community.</p> <p>18 Q What is this document?</p> <p>19 A It's information material for</p> <p>20 the community and everything, food, you know.</p> <p>21 As you can see, there's web sites,</p> <p>22 everything here.</p> <p>23 Q Does Churrascaria Boi Na Brasa</p> <p>24 have a marketing presence in New York?</p> <p>25 MS. DUBOWY: Objection, ambiguous.</p>	<p style="text-align: right;">71</p> <p>1 F. SALEH</p> <p>2 Q What kind of documents were these;</p> <p>3 were these the corporate documents that you have?</p> <p>4 A Yes.</p> <p>5 Q Did you give to your attorneys</p> <p>6 all the documents that you reviewed?</p> <p>7 A All I did was ask their opinion.</p> <p>8 Q The documents that you reviewed in</p> <p>9 order to prepare for our meeting today, did you</p> <p>10 give them to your attorney for them to review</p> <p>11 and comply with their obligations to produce</p> <p>12 documents?</p> <p>13 INTERPRETER: Could you repeat that.</p> <p>14 (Whereupon, the requested</p> <p>15 portion of the record was read back</p> <p>16 by the reporter, as above recorded.)</p> <p>17 A I don't understand your question.</p> <p>18 I don't understand this question.</p> <p>19 Q My question is:</p> <p>20 Did you give all the documents</p> <p>21 you reviewed in connection with this proceeding</p> <p>22 to your attorneys?</p> <p>23 A All documents connected to</p> <p>24 these proceedings here, I provided to them.</p> <p>25 Q And there is nothing else, right?</p>
<p style="text-align: right;">70</p> <p>1 F. SALEH</p> <p>2 Q Does Churrascaria Boi Na Brasa</p> <p>3 advertise in New York?</p> <p>4 A Yes.</p> <p>5 Q Does Churrascaria Boi Na Brasa</p> <p>6 advertise in Connecticut?</p> <p>7 A Yes.</p> <p>8 MR. CLARK: I have no</p> <p>9 further questions.</p> <p>10 (Whereupon, at 1:00 p.m. a</p> <p>11 brief recess was taken and at 1:53 p.m.</p> <p>12 the deposition recommenced.)</p> <p>13 CROSS EXAMINATION</p> <p>14 BY MS. DUBOWY:</p> <p>15 Q Good afternoon, Mr. Farid Saleh.</p> <p>16 May I say Farid or Saleh?</p> <p>17 A Farid.</p> <p>18 Q Farid, did you review any</p> <p>19 documents from the time we finished here</p> <p>20 today at 1 o'clock to now?</p> <p>21 A No.</p> <p>22 Q Did you review any documents</p> <p>23 from our last meeting in March to now, in</p> <p>24 connection to this proceeding?</p> <p>25 A Yes.</p>	<p style="text-align: right;">72</p> <p>1 F. SALEH</p> <p>2 A For now, no.</p> <p>3 Q Okay. You testified earlier</p> <p>4 today that you created with a friend, Paulo,</p> <p>5 Churrascaria Brasa Corp, right; Boi Na Brasa Corp,</p> <p>6 correct?</p> <p>7 A Correct.</p> <p>8 Q You did, right?</p> <p>9 A Yes.</p> <p>10 Q And that was in '96?</p> <p>11 A We started to think about</p> <p>12 the Churrascaria since '95, I started.</p> <p>13 Q And then you eventually formed</p> <p>14 Churrascaria Boi Na Brasa Corp in '96, correct?</p> <p>15 A In '96, correct.</p> <p>16 Q And the document that was marked</p> <p>17 as Exhibit Number 1, that's the document that</p> <p>18 shows the creation of the corporation, right?</p> <p>19 MR. CLARK: Objection, form.</p> <p>20 MS. DUBOWY: What's your basis?</p> <p>21 MR. CLARK: It doesn't show the</p> <p>22 creation. The document only indicates</p> <p>23 that it has been incorporated.</p> <p>24 Q And registered the corporation</p> <p>25 in '96, correct?</p>

<p style="text-align: right;">73</p> <p>1 F. SALEH</p> <p>2 A Correct.</p> <p>3 Q And this document reflects</p> <p>4 registration of the corporation?</p> <p>5 A Correct.</p> <p>6 Q And the corporation we're talking</p> <p>7 here is Churrascaria Boi Na Brasa Corp?</p> <p>8 A Correct.</p> <p>9 Q And then later on we have Exhibit</p> <p>10 Number 2. And isn't it correct, that according</p> <p>11 to your testimony earlier today, you need this</p> <p>12 document to collect sales tax?</p> <p>13 MR. CLARK: Objection,</p> <p>14 mischaracterizes his testimony.</p> <p>15 MS. DUBOWY: In what way?</p> <p>16 MR. CLARK: This document</p> <p>17 alone doesn't give authority as a</p> <p>18 reflection of that.</p> <p>19 Q And this document here reflects</p> <p>20 your ability or rather Churrascaria Brasa</p> <p>21 Corporation ability to collect sales tax?</p> <p>22 A Correct.</p> <p>23 Q And there is a tax registration</p> <p>24 number that the State of New Jersey gives to</p> <p>25 Churrascaria Boi Na Brasa Corporation in order</p>	<p style="text-align: right;">75</p> <p>1 F. SALEH</p> <p>2 is April 15th so he started his</p> <p>3 business then.</p> <p>4 MS. DUBOWY: The date</p> <p>5 issued is June 4, 1996.</p> <p>6 MR. CLARK: This document</p> <p>7 was issued June 4, 1996. The authority</p> <p>8 was issued possibly before then.</p> <p>9 MS. DUBOWY: Please allow me</p> <p>10 to conduct my cross-examination and</p> <p>11 I will ask you to let me do it.</p> <p>12 MR. CLARK: I understand.</p> <p>13 I object to you reading things</p> <p>14 into the document that have not</p> <p>15 been testified to previously.</p> <p>16 Q When you first start Churrascaria</p> <p>17 Boi Na Brasa Corp, you needed to obtain a bunch</p> <p>18 of licenses in order to start your business,</p> <p>19 right?</p> <p>20 A Yes.</p> <p>21 Q You needed to obtain a license</p> <p>22 to serve food, correct?</p> <p>23 A Yes.</p> <p>24 Q And you needed to obtain a license</p> <p>25 in order to employ people?</p>
<p style="text-align: right;">74</p> <p>1 F. SALEH</p> <p>2 to be able to collect sales tax, correct?</p> <p>3 A Correct.</p> <p>4 Q Can you read for us the</p> <p>5 tax registration number?</p> <p>6 A 2-2-3-4-3-5-7-0-5.</p> <p>7 Q And it says later on just below</p> <p>8 it tax effective date, right?</p> <p>9 A Yes.</p> <p>10 Q And what is that date?</p> <p>11 A April 15, 1996.</p> <p>12 Q And then the last row in the</p> <p>13 last column of the document it says date issued,</p> <p>14 isn't it?</p> <p>15 A Yes.</p> <p>16 Q And what is the date that shows</p> <p>17 in the document?</p> <p>18 A 6-4-96.</p> <p>19 Q So it's fair to say that you</p> <p>20 incorporated the company in March and by June,</p> <p>21 you had your sales tax so that you could start</p> <p>22 the business, right?</p> <p>23 MR. CLARK: Objection, form.</p> <p>24 MS. DUBOWY: Why, what's your basis?</p> <p>25 MR. CLARK: Effective date</p>	<p style="text-align: right;">76</p> <p>1 F. SALEH</p> <p>2 A I don't know.</p> <p>3 Q Do you recall requesting a license</p> <p>4 to get Workers' Compensation for your employees if</p> <p>5 they got sick?</p> <p>6 A I actually don't remember because</p> <p>7 when we started the restaurant, it was just</p> <p>8 myself, my wife, Paulo, his wife, and my wife's</p> <p>9 sister. It was just the family.</p> <p>10 Q Did you ask for tax ID number?</p> <p>11 A We have a tax ID number.</p> <p>12 Q When you were doing your business</p> <p>13 under Churrascaria Boi Na Brasa Corporation, did</p> <p>14 you have a tax ID number?</p> <p>15 A For sure.</p> <p>16 Q And you also needed an authority</p> <p>17 to collect sales tax, right?</p> <p>18 A Yes.</p> <p>19 Q Do you recall having applied for</p> <p>20 such a license?</p> <p>21 A Don't remember.</p> <p>22 Q And you were also shown today</p> <p>23 Exhibit 18?</p> <p>24 A Let me see here, I don't know</p> <p>25 which one is document 18.</p>

<p style="text-align: right;">77</p> <p><b>F. SALEH</b></p> <p>Q Can you explain what this document is?</p> <p>A It's the Certificate of Incorporation.</p> <p>Q And what does this document do?</p> <p>A This document is for you to register a corporation.</p> <p>Q Did you register a corporation?</p> <p>A Yes.</p> <p>Q What corporation is that in this document?</p> <p>A Terra Sul Corp.</p> <p>Q And when did you register this corporation?</p> <p>A January 19, 1999.</p> <p>Q Did you dissolve the first corporation before you started the second corporation -- let me rephrase it.</p> <p>Did you dissolve Churrascaria Boi Na Brasa Corp before you incorporated Terra Sul Corporation?</p> <p>A I don't know. I don't know; no.</p> <p>Q You didn't or you don't know?</p> <p>A I did not dissolve one company</p>	<p style="text-align: right;">79</p> <p><b>F. SALEH</b></p> <p>Corporation. Now my question to you is:</p> <p>After you registered Terra Sul Corp, did you dissolve Churrascaria Boi Na Brasa Corp?</p> <p>A I don't remember. I think it was dissolved at some point because we continued paying with Terra Sul but I can't give you exact dates because I don't know if I'm going to be saying anything. I'm going to be guessing.</p> <p>Q Was there any point where you were paying income tax for both companies?</p> <p>A I could only give you an answer if I ask my accountant.</p> <p>Q We would like to know the answer, if possible.</p> <p>A Okay, I'll ask him.</p> <p>Q Do you have in your restaurant a sign that displays the Certificate of Authority of your company, of your restaurant, to collect tax?</p> <p>A Yes.</p> <p>Q And before you received this Certificate of Authority, you can't collect tax on behalf of the State of New Jersey, isn't it?</p> <p>MR. CLARK: Objection, calls</p>
<p style="text-align: right;">78</p> <p><b>F. SALEH</b></p> <p>before opening the other, no. To be sure a hundred percent, I would have to contact my accountant.</p> <p>Q Did you dissolve Churrascaria Boi Na Brasa Corp any time between 25th of March 1996 to today?</p> <p>A No, only after Terra Sul.</p> <p>We did it after Terra Sul.</p> <p>Q But you are not sure?</p> <p>WITNESS: I'm sure.</p> <p>Q You're sure?</p> <p>A Of what?</p> <p>Q Have you dissolved Churrascaria Boi Na Brasa Corp any time between March 25th, 1996 to now?</p> <p>A I would like to know the reason for this question. When one was dissolved, the other one started to pay the taxes and everything.</p> <p>MS. DUBOWY: So you're saying -- you still haven't responded to my question. Let's try to break it up.</p> <p>Q You told me earlier that you didn't dissolve Churrascaria Boi Na Brasa Corp up to the point you incorporated Terra Sul</p>	<p style="text-align: right;">80</p> <p><b>F. SALEH</b></p> <p>for a legal conclusion.</p> <p>MS. DUBOWY: He may know. He is a business owner. He has been in the business for ten years. He knows what he has to do in order to have a restaurant.</p> <p>MR. CLARK: You're assuming he knows the law fully because he is a business owner.</p> <p>MS. DUBOWY: You can answer if you know the question.</p> <p>A I did not understand the question.</p> <p>Q Do you need the Certificate of Authority in order to do your business?</p> <p>A Yes, I do.</p> <p>Q Why you need the Certificate of Authority?</p> <p>A To collect taxes.</p> <p>Q So without the Certificate of Authority, you cannot sell food in your restaurant?</p> <p>A Where does it say?</p> <p>Q You just told me that in order to do your business you need the Certificate of</p>

<p style="text-align: right;">81</p> <p>1 F. SALEH</p> <p>2 Authority, and then I asked you why is that and</p> <p>3 you responded.</p> <p>4 A I answered yes.</p> <p>5 Q Why?</p> <p>6 A But and then I asked her the</p> <p>7 question where is it written that I can't.</p> <p>8 MS. DUBOWY: You can ask me</p> <p>9 all the questions after we finish here.</p> <p>10 For now, I have priority of asking the</p> <p>11 questions, okay.</p> <p>12 A Okay.</p> <p>13 Q Why do you think you need the</p> <p>14 Certificate of Authority in order to do your</p> <p>15 business which is the business of restaurant?</p> <p>16 A It's ordered by the state that</p> <p>17 you have to pay taxes over what you sell, a</p> <p>18 product you sell.</p> <p>19 Q So it's not sufficient just to get</p> <p>20 the registration of the company. You also need</p> <p>21 to comply with additional bureaucratic hoops, one</p> <p>22 being of getting Certificate of Authority, isn't</p> <p>23 it?</p> <p>24 MR. CLARK: Objection, form.</p> <p>25 MS. DUBOWY: Why?</p>	<p style="text-align: right;">83</p> <p>1 F. SALEH</p> <p>2 Q Do you remember when was it filed?</p> <p>3 A January 19, 1999.</p> <p>4 Q And then we have Exhibit 20 which</p> <p>5 is the Certificate of Authority for Terra Sul</p> <p>6 Corp. Can you read for us tax registration number</p> <p>7 on that Certificate of Authority?</p> <p>8 A 2-2-3-6-3-8-6-5-2.</p> <p>9 Q Can you read the effective date?</p> <p>10 A 4-1-99.</p> <p>11 Q Can you also read to us when was the</p> <p>12 Certificate of Authority issued to your company?</p> <p>13 A 8-27-02.</p> <p>14 Q This was the first Certificate of</p> <p>15 Authority that Terra Sul Corporation received?</p> <p>16 A I think so.</p> <p>17 Q So between '99 or rather, between</p> <p>18 January 19, 1999 which is when you incorporated</p> <p>19 your company Terra Sul Corporation and August 27,</p> <p>20 2002, Terra Sul Corporation did not have a</p> <p>21 Certificate of Authority, isn't it?</p> <p>22 MR. CLARK: Objection, form.</p> <p>23 MS. DUBOWY: This question is fine.</p> <p>24 Don't object to form if you don't have</p> <p>25 basis please.</p>
<p style="text-align: right;">82</p> <p>1 F. SALEH</p> <p>2 MR. CLARK: What's required,</p> <p>3 to do what?</p> <p>4 MS. DUBOWY: Business.</p> <p>5 MR. CLARK: What business?</p> <p>6 MS. DUBOWY: His business.</p> <p>7 MR. CLARK: Please ask him that.</p> <p>8 MS. DUBOWY: I think I</p> <p>9 asked the question.</p> <p>10 Q So in order to do your business of</p> <p>11 restaurant, Churrascaria Boi Na Brasa, it's not</p> <p>12 only sufficient to file this registration of the</p> <p>13 company. You also need additional permits such</p> <p>14 as the Certificate of Authority, correct?</p> <p>15 A You need various different</p> <p>16 papers in order to operate legally.</p> <p>17 Q This being one of them?</p> <p>18 A This is one of them.</p> <p>19 Q So let's go back to your Exhibit 18</p> <p>20 which is the document that shows the registration</p> <p>21 of Terra Sul Corp, isn't it?</p> <p>22 A Yes.</p> <p>23 Q So what is this document again?</p> <p>24 A Registration for the corporation,</p> <p>25 Terra Sul Corporation.</p>	<p style="text-align: right;">84</p> <p>1 F. SALEH</p> <p>2 You can respond.</p> <p>3 MR. CLARK: Objection, form;</p> <p>4 assumes facts not in evidence.</p> <p>5 MS. DUBOWY: We have established</p> <p>6 that the Certificate of Authority for</p> <p>7 Terra Sul Corporation was issued on</p> <p>8 August 27, 2002. The corporation was</p> <p>9 incorporated in January 19, 1999.</p> <p>10 Everything here is a conclusion that's</p> <p>11 already in the record.</p> <p>12 MR. CLARK: You have a paper</p> <p>13 that says it was issued on August 27, 2002.</p> <p>14 There might have been authority issued</p> <p>15 that was not part of this so you're</p> <p>16 assuming facts not in evidence.</p> <p>17 MS. DUBOWY: Let me ask the</p> <p>18 question. I'm asking the question</p> <p>19 to him. You are not the one being</p> <p>20 deposed. Please keep yourself with</p> <p>21 the legal questions.</p> <p>22 MR. CLARK: Please don't</p> <p>23 put words in my client's mouth.</p> <p>24 MS. DUBOWY: I ask you not to</p> <p>25 interrupt me if you're not really --</p>

<p style="text-align: right;">85</p> <p>1 F. SALEH</p> <p>2 MR. CLARK: -- I have a fair</p> <p>3 objection I want to get on the record.</p> <p>4 Q You testified here earlier</p> <p>5 today that this was the first time that</p> <p>6 Terra Sul Corporation received this</p> <p>7 Certificate of Authority.</p> <p>8 MR. CLARK: Objection,</p> <p>9 mischaracterizes previous testimony.</p> <p>10 MS. DUBOWY: Read back the question.</p> <p>11 (Whereupon, the requested</p> <p>12 portion of the record was read back</p> <p>13 by the reporter, as above recorded.)</p> <p>14 Q You said earlier today that you</p> <p>15 thought that Exhibit 20 was the first time the</p> <p>16 company was issued a Certificate of Authority,</p> <p>17 your company being Terra Sul Corporation.</p> <p>18 Are there any documents that, if</p> <p>19 I show to you, would refresh your recollection</p> <p>20 as to that was the first time you received</p> <p>21 Certificate of Authority for Terra Sul</p> <p>22 Corporation?</p> <p>23 A You can show it to me.</p> <p>24 Q You don't remember that Terra Sul</p> <p>25 Corporation was issued a Certificate of Authority</p>	<p style="text-align: right;">87</p> <p>1 F. SALEH</p> <p>2 signed on your own individual behalf?</p> <p>3 A When I bought the company</p> <p>4 Boi Na Brasa, when I did the business of buying</p> <p>5 it, this Promissory Note was the purchase that we</p> <p>6 made, the real estate purchase. So I owed</p> <p>7 \$13,000. So we made a deal, he and I, that</p> <p>8 I would pay monthly installments without</p> <p>9 any interest.</p> <p>10 Q Who did you have to pay?</p> <p>11 A To the owner of the restaurant</p> <p>12 that we were buying.</p> <p>13 Q You testified earlier today that</p> <p>14 you, Farid, used the term Boi Na Brasa in the</p> <p>15 United States before my client, isn't it?</p> <p>16 A Yes.</p> <p>17 Q You also said that Gullas</p> <p>18 Corporation and Terra Sul Corporation</p> <p>19 currently use the Boi Na Brasa mark?</p> <p>20 A Yes.</p> <p>21 Q Do you have any documents that</p> <p>22 shows that you gave permission for those two</p> <p>23 companies to use the mark, Boi Na Brasa mark?</p> <p>24 A The two companies are my company.</p> <p>25 Q You testified earlier today that --</p>
<p style="text-align: right;">86</p> <p>1 F. SALEH</p> <p>2 before August 27, 2002?</p> <p>3 A I don't remember. All I know</p> <p>4 is we paid taxes every month, every month.</p> <p>5 We never stopped paying them.</p> <p>6 MS. DUBOWY: If there are any</p> <p>7 documents that show that you received</p> <p>8 the Certificate of Authority for</p> <p>9 Terra Sul Corporation before August 27,</p> <p>10 2002, we would like to see them.</p> <p>11 Q Now I'm going to show you another</p> <p>12 document that you were shown today. I'm showing</p> <p>13 you Exhibit Number 3. I'm going to direct your</p> <p>14 attention to the second page of the exhibit.</p> <p>15 Can you tell us, this is a</p> <p>16 Promissory Note, right?</p> <p>17 A Yes.</p> <p>18 Q And it's dated March 22nd, 1996?</p> <p>19 A Yes.</p> <p>20 Q And it's for \$13,000?</p> <p>21 A Yes.</p> <p>22 Q And it's signed by you?</p> <p>23 A Yes.</p> <p>24 Q You signed this note on behalf</p> <p>25 of the company, on behalf of a company or you</p>	<p style="text-align: right;">88</p> <p>1 F. SALEH</p> <p>2 let's go back here actually.</p> <p>3 MS. DUBOWY: Read back the question.</p> <p>4 (Whereupon, an extensive portion</p> <p>5 of the record was read back by the</p> <p>6 reporter, as above recorded.)</p> <p>7 Q You testified earlier today that</p> <p>8 Boi Na Brasa catered an event for a relative of</p> <p>9 the owner of the Hotel Madrid in New York, yes?</p> <p>10 A Hotel Madrid is located in</p> <p>11 New Jersey, Wildwood.</p> <p>12 Q That was not my question.</p> <p>13 A The person I did the event for,</p> <p>14 she lives in New York. I only mentioned her</p> <p>15 because I met her. She's part of the family</p> <p>16 of the owner of the Hotel Madrid which was</p> <p>17 sold just recently.</p> <p>18 Q So you testified earlier today</p> <p>19 that a relative of Hotel Madrid had a catered</p> <p>20 event by you, by Boi Na Brasa in New York?</p> <p>21 A In New York, yes.</p> <p>22 Q I'm going to direct your attention</p> <p>23 to your deposition from March of this year.</p> <p>24 Do you need a transcript?</p> <p>25 MR. CLARK: I don't have a</p>



<p style="text-align: right;">89</p> <p>1 F. SALEH</p> <p>2 copy of it.</p> <p>3 Q When I asked then whether you had</p> <p>4 catered events in New York your answer was no, and</p> <p>5 I'm going to give you the opportunity to explain</p> <p>6 now why the answer is different. It's on page 34,</p> <p>7 line 5 of your deposition.</p> <p>8 Reading from his deposition</p> <p>9 in March 2008:</p> <p>10 "Q. What other activities</p> <p>11 have you done in New York, not</p> <p>12 necessarily advertising, have</p> <p>13 you done any kind of events in</p> <p>14 New York, what exactly have</p> <p>15 you done in New York, like</p> <p>16 catering?</p> <p>17 A. The large Brazilian</p> <p>18 party that they have on</p> <p>19 46th Street in New York.</p> <p>20 Q. What did you do there?</p> <p>21 A. Gave out flyers and</p> <p>22 T-shirts as well.</p> <p>23 Q. Since when have you</p> <p>24 been doing this?</p> <p>25 A. I only did this for</p>	<p style="text-align: right;">91</p> <p>1 F. SALEH</p> <p>2 It's a lot of people, almost one million people.</p> <p>3 That time when I said this, I went there to give</p> <p>4 out T-shirts and flyers as I said. When I said</p> <p>5 that I went to New York, I went to make money on</p> <p>6 this catering event, at this party at a house, at</p> <p>7 a house in New York. I went there because this</p> <p>8 person Linda, her name is Linda, who owned Madrid</p> <p>9 Hotel in Wildwood, I had been doing events for</p> <p>10 her for three years. She liked Brazil a lot.</p> <p>11 She had been to Brazil. So there was a party</p> <p>12 with Brazilians and Americans. It was a soccer</p> <p>13 game so later when she decided to sell the hotel</p> <p>14 and to retire the following year, I received a</p> <p>15 call from a member of that family to see if I can</p> <p>16 do catering at their house.</p> <p>17 Q Yeah, but my question was a little</p> <p>18 different. When I asked whether you had done</p> <p>19 events like catering in New York before, you</p> <p>20 didn't respond; you didn't say that you had done</p> <p>21 this event, why is that?</p> <p>22 A I might not have remembered</p> <p>23 this one.</p> <p>24 May I say something?</p> <p>25 MS. DUBOWY: Can you read</p>
<p style="text-align: right;">90</p> <p>1 F. SALEH</p> <p>2 two years.</p> <p>3 Q. Which years were these?</p> <p>4 A. We did it in 2005 or 6,</p> <p>5 I think 2005 and 2006.</p> <p>6 Q. And you haven't done</p> <p>7 it since then?</p> <p>8 A. No.</p> <p>9 Q. Why not?</p> <p>10 A. We just decided to stop it.</p> <p>11 It wasn't profitable, it was not</p> <p>12 the kind of people -- actually,</p> <p>13 because this always happens on</p> <p>14 a Sunday which is a busy day for</p> <p>15 us here, there is a lot of work</p> <p>16 here for us. So I stopped doing</p> <p>17 it and I decided instead to just</p> <p>18 take care of my restaurant here."</p> <p>19 He can go now and explain the</p> <p>20 contradictions between the two testimonies.</p> <p>21 A Okay. First of all, there's no</p> <p>22 contradiction. This 46th Street festival which</p> <p>23 is out, and it's going to be out again this year,</p> <p>24 this is an opportunity for everyone to see</p> <p>25 Brazilian bands. Nobody pays to go there.</p>	<p style="text-align: right;">92</p> <p>1 F. SALEH</p> <p>2 the last question.</p> <p>3 (Whereupon, the requested</p> <p>4 portion of the record was read back</p> <p>5 by the reporter, as above recorded.)</p> <p>6 Q Why is that, that's the question</p> <p>7 to you.</p> <p>8 INTERPRETER: Please let</p> <p>9 the reporter repeat.</p> <p>10 (Whereupon, the requested</p> <p>11 portion of the record was read back</p> <p>12 by the reporter, as above recorded.)</p> <p>13 A Well, first of all, I don't have</p> <p>14 anything to hide. Events, large events that I</p> <p>15 held in the Brazilian party --</p> <p>16 Q -- that was not my question.</p> <p>17 A So what is your question?</p> <p>18 MS. DUBOWY: Can you read</p> <p>19 the question back to him.</p> <p>20 (Whereupon, the requested</p> <p>21 portion of the record was read back</p> <p>22 by the reporter, as above recorded.)</p> <p>23 A I didn't think it was important.</p> <p>24 It's the same thing when September 11 happened,</p> <p>25 we donated food for people who were assisting</p>

<p style="text-align: right;">93</p> <p>1 <b>F. SALEH</b></p> <p>2 <b>there and I don't have to mention that.</b></p> <p>3 Q Does Terra Sul own</p> <p>4 Gullas Corporation?</p> <p>5 A Gullas is one company, Terra Sul</p> <p>6 is another company and I'm the president for</p> <p>7 both companies.</p> <p>8 Q But does Gullas Corporation</p> <p>9 own Terra Sul Corporation?</p> <p>10 A I said that they are two</p> <p>11 different companies and that I own both.</p> <p>12 Q Individually, you own the shares?</p> <p>13 A Yes.</p> <p>14 Q Does either of these two</p> <p>15 corporations have any other shareholders</p> <p>16 besides yourself?</p> <p>17 A My wife but I'm the owner.</p> <p>18 Q So besides you and your wife,</p> <p>19 there are no other shareholders?</p> <p>20 A No.</p> <p>21 MS. DUBOWY: No further questions.</p> <p>22 REDIRECT EXAMINATION</p> <p>23 BY MR. CLARK:</p> <p>24 Q Farid, when she asked you about</p> <p>25 your previous deposition testimony, her question</p>	<p style="text-align: right;">95</p> <p>1 <b>F. SALEH</b></p> <p>2 A I don't even know what the question</p> <p>3 is because I can't even read this; where is it?</p> <p>4 Should I read that in English?</p> <p>5 Q You can translate it back to her</p> <p>6 and she can read it in English.</p> <p>7 A She had asked if I had done any</p> <p>8 catering or advertisements in New York, correct?</p> <p>9 Q Correct. And what was your exact</p> <p>10 answer?</p> <p>11 A Yes.</p> <p>12 Q What was your exact answer?</p> <p>13 WITNESS: Giving out flyers</p> <p>14 and T-shirts as well.</p> <p>15 Q The answer before that?</p> <p>16 WITNESS: "The large Brazilian party</p> <p>17 that they have on 46th Street in New York."</p> <p>18 Q After you gave this answer to her,</p> <p>19 did she at any time ask you what else did you do</p> <p>20 in New York?</p> <p>21 A No.</p> <p>22 Q Did you at any time testify in March</p> <p>23 of this year, that that was the only thing you did</p> <p>24 in New York?</p> <p>25 A No.</p>
<p style="text-align: right;">94</p> <p>1 <b>F. SALEH</b></p> <p>2 from March was:</p> <p>3 "What other activities have you</p> <p>4 done in New York, not necessarily advertising,</p> <p>5 have you done any kind of events in New York,</p> <p>6 what exactly have you done in New York, like</p> <p>7 catering?"</p> <p>8 Is that correct?</p> <p>9 A Correct.</p> <p>10 Where is it; okay.</p> <p>11 Q Is that correct?</p> <p>12 A Correct.</p> <p>13 Q What was your answer?</p> <p>14 MS. DUBOWY: Are you going</p> <p>15 to ask him to read from the transcript?</p> <p>16 MR. CLARK: From the transcript.</p> <p>17 A The answer that I gave her for</p> <p>18 this question that she posed, I mentioned this</p> <p>19 festival because it's what came to my mind, what</p> <p>20 I remembered at that time.</p> <p>21 MS. DUBOWY: Objection. I</p> <p>22 was under the impression that you</p> <p>23 want him to read from the transcript?</p> <p>24 MR. CLARK: Right.</p> <p>25 Can you read back exactly.</p>	<p style="text-align: right;">96</p> <p>1 <b>F. SALEH</b></p> <p>2 Q Farid, do you have accountants?</p> <p>3 A Yes, I do.</p> <p>4 Q Do you have lawyers?</p> <p>5 A Yes.</p> <p>6 Q Do they give you advice on</p> <p>7 establishing and opening your business?</p> <p>8 A I don't understand your question.</p> <p>9 Q Do your lawyers or accountants</p> <p>10 ever give you advice on establishing or opening</p> <p>11 your business?</p> <p>12 A I believe that if I ask them</p> <p>13 they will give me the information.</p> <p>14 Q Do they give you any advice</p> <p>15 on operating your business?</p> <p>16 A No.</p> <p>17 Q Do you follow the advice of</p> <p>18 your accountants and lawyers?</p> <p>19 A If I follow their advice?</p> <p>20 Q Do you follow their advice</p> <p>21 when they give it?</p> <p>22 A If they provide advice, I follow</p> <p>23 them.</p> <p>24 Q Are you a lawyer?</p> <p>25 A No.</p>

<p style="text-align: right;">97</p> <p>1 F. SALEH</p> <p>2 Q Are you an accountant?</p> <p>3 A No.</p> <p>4 Q Are you a tax expert?</p> <p>5 A No.</p> <p>6 Q What is the language of</p> <p>7 the corporate documents associated with</p> <p>8 Churrascaria Boi Na Brasa?</p> <p>9 A English.</p> <p>10 Q Is English your primary language?</p> <p>11 A No.</p> <p>12 Q Farid, from April of 1996 to the</p> <p>13 current time, has Churrascaria Boi Na Brasa, the</p> <p>14 restaurant, ever shut down?</p> <p>15 A No.</p> <p>16 Q From 1996 to the current time,</p> <p>17 has Churrascaria Boi Na Brasa ever closed its</p> <p>18 doors to its customers?</p> <p>19 A No, never.</p> <p>20 Q From 1996 to the current time,</p> <p>21 has Churrascaria Boi Na Brasa ever stopped</p> <p>22 doing business to customers in New Jersey?</p> <p>23 MS. DUBOWY: Objection, ambiguous.</p> <p>24 Are you talking about the</p> <p>25 corporation or the restaurant?</p>	<p style="text-align: right;">99</p> <p>1 F. SALEH</p> <p>2 MS. DUBOWY: Objection, leading.</p> <p>3 Q Does Churrascaria Boi Na Brasa,</p> <p>4 the restaurant, annually pay taxes?</p> <p>5 A Yes.</p> <p>6 Q Has Churrascaria Boi Na Brasa</p> <p>7 ever stopped paying annual taxes since 1996?</p> <p>8 MS. DUBOWY: Objection, ambiguous.</p> <p>9 Q Since 1996, has Churrascaria</p> <p>10 Boi Na Brasa, the restaurant, ever failed to</p> <p>11 pay its taxes?</p> <p>12 MS. DUBOWY: Objection, ambiguous.</p> <p>13 MR. CLARK: What's ambiguous</p> <p>14 about it?</p> <p>15 MR. EAMON: What's ambiguous</p> <p>16 about it?</p> <p>17 MS. DUBOWY: The restaurant, it's</p> <p>18 the corporation. You can rephrase it.</p> <p>19 Q From 1996 to January 19, 1999,</p> <p>20 did Churrascaria Boi Na Brasa Corp ever fail</p> <p>21 to pay taxes?</p> <p>22 A No.</p> <p>23</p> <p>24 (Continue...)</p> <p>25</p>
<p style="text-align: right;">98</p> <p>1 F. SALEH</p> <p>2 Q Has Churrascaria Boi Na Brasa,</p> <p>3 the restaurant, ever stopped doing business to</p> <p>4 customers in New Jersey?</p> <p>5 A No.</p> <p>6 Q Has the State of New Jersey</p> <p>7 ever shut down the restaurant Churrascaria</p> <p>8 Boi Na Brasa?</p> <p>9 A No.</p> <p>10 Q From 1996 to the current time,</p> <p>11 has the State of New Jersey ever demanded that</p> <p>12 you stop doing business?</p> <p>13 A No.</p> <p>14 MS. DUBOWY: Objection, ambiguous.</p> <p>15 Q From 1996 to the current time, has</p> <p>16 the State of New Jersey ever told you, as the</p> <p>17 president of Terra Sul Corporation and earlier,</p> <p>18 the President of Churrascaria Boi Na Brasa Corp,</p> <p>19 that Churrascaria Boi Na Brasa, the restaurant,</p> <p>20 must stop doing business?</p> <p>21 A No.</p> <p>22 Q Farid, did Churrascaria Boi Na Brasa</p> <p>23 Corp begin collecting taxes associated with</p> <p>24 Churrascaria Boi Na Brasa, the restaurant, in</p> <p>25 1996?</p>	<p style="text-align: right;">100</p> <p>1 F. SALEH</p> <p>2 Q From January 19, 1999 to the</p> <p>3 present time, has Terra Sul Corp ever failed</p> <p>4 to pay income taxes?</p> <p>5 A No.</p> <p>6 MR. CLARK: I don't have</p> <p>7 any further questions.</p> <p>8 (Whereupon, at 3:18 p.m., the</p> <p>9 deposition was concluded.)</p> <p>10 o0o</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">101</p> <p>1           A C K N O W L E D G M E N T</p> <p>2</p> <p>3       STATE OF NEW YORK }</p> <p>4               } ss.:</p> <p>5       COUNTY OF NEW YORK }</p> <p>6</p> <p>7       I, FARID SALEH, hereby certify, I have read</p> <p>8       the transcript of my testimony taken under oath</p> <p>9       in my deposition of August 7th, 2008; that the</p> <p>10       transcript is a true, complete and correct record</p> <p>11       of what was asked, answered and said during this</p> <p>12       deposition, and that the answers on the record</p> <p>13       as given by me are true and correct.</p> <p>14</p> <p>15                       <u>FARID SALEH</u></p> <p>16</p> <p>17       Subscribed and sworn to before me</p> <p>18       this ____ day of _____, 2008.</p> <p>19</p> <p>20                       <u>NOTARY PUBLIC</u></p> <p>21</p> <p>22                       O O O</p> <p>23</p> <p>24                       U.S. LEGAL SUPPORT, INC.</p> <p>25</p>	<p style="text-align: right;">103</p> <p>1           E X H I B I T S</p> <p>2</p> <p>3       PLAINTIFFS EXHIBITS/DESCRIPTION           PAGE</p> <p>4       Ex. 1 - Copy of Certificate of Incorporation. 7 - 8</p> <p>5       Ex. 2 - Copy of Certificate of Authority.     9</p> <p>6               Bates stamp TS001087</p> <p>7       Ex. 3 - Offer to Purchase Real Estate.     12</p> <p>8               Bates stamp TS000017</p> <p>9       Ex. 4 - (Withdrawn from the record.)     16</p> <p>10       Ex. 5 - Copy of a check dated May 6, 1997   21</p> <p>11               made out to Newark Adams.</p> <p>12               Bates stamp TS000373-TS000374</p> <p>13       Ex. 6 - Commercial General Liability,     22</p> <p>14               Colonial Insurance Company.</p> <p>15               Bates stamp TS000350-TS000361</p> <p>16       Ex. 7 - Commercial General Liability,     24</p> <p>17               Colonial Insurance Company.</p> <p>18               Bates stamp TS000393</p> <p>19       Ex. 8 - Prudential Insurance and           25</p> <p>20               Financial Services.</p> <p>21               Bates stamp TS000317-TS000342</p> <p>22       Ex. 9 - American Equity Insurance Company. 28</p> <p>23               Bates stamp TS000267-TS000306.</p> <p>24       Ex. 10 - Four-page business checking account   30</p> <p>25               statement from PNC Bank, New Jersey,</p> <p>              for Churrascaria Boi Na Brasa Corp.</p> <p>              Marked "CONFIDENTIAL"</p> <p>              Bates stamp TS000247-TS000250</p> <p>Ex. 11 - Two-page business checking account   31</p> <p>statement from PNC Bank, New Jersey,</p> <p>for Churrascaria Boi Na Brasa Corp.</p> <p>Marked "CONFIDENTIAL"</p> <p>Bates stamp TS000379-TS000380</p> <p>U.S. LEGAL SUPPORT, INC.</p>
<p style="text-align: right;">102</p> <p>1           I N D E X</p> <p>2</p> <p>3           W I T N E S S</p> <p>4           Farid Saleh</p> <p>5       Direct Examination by Mr. Clark     Page 3</p> <p>6       Cross Examination by Ms. Dubowy   Page 70</p> <p>7       Redirect Examination by Mr. Clark   Page 93</p> <p>8</p> <p>9       I N F O R M A T I O N   R E Q U E S T E D           P A G E</p> <p>10       Provide any documents reflecting     86</p> <p>11       whether the Certificate of Authority</p> <p>12       for Terra Sul Corporation was received</p> <p>13       before August 27, 2002.</p> <p>14</p> <p>15                       o o o</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24                       U.S. LEGAL SUPPORT, INC.</p> <p>25                       ONE PENN PLAZA, NEW YORK, N.Y. 10119</p>	<p style="text-align: right;">104</p> <p>1           E X H I B I T S</p> <p>2</p> <p>3       PLAINTIFFS EXHIBITS/DESCRIPTION           PAGE</p> <p>4       Ex. 12 - 1996 Income Tax Returns for     32</p> <p>5               Farid Saleh and Tais Mubarak.</p> <p>6               Marked "CONFIDENTIAL"</p> <p>7               Bates stamp TS000021-TS000027</p> <p>8       Ex. 13 - 1997 Individual Income Tax Return   34</p> <p>9               and 1997 Earned Income Credit of</p> <p>10               Farid Saleh.</p> <p>11               Marked "CONFIDENTIAL"</p> <p>12               Bates stamp TS000382-TS000392</p> <p>13       Ex. 14 - Photocopy of check dated       37</p> <p>14               June 26, 1996 made out to PSE&amp;G.</p> <p>15               Bates stamp TS000163-TS000164</p> <p>16       Ex. 15 - Five-page copy of Brazilian Press   41</p> <p>17               newspaper from September 17th to</p> <p>18               the 23rd of the year 1997.</p> <p>19       Ex. 16 - Hold Harmless and               46</p> <p>20               Indemnity Agreement.</p> <p>21               Bates stamp TS001287</p> <p>22       Ex. 17 - Three pages consisting of       49</p> <p>23               logo and drawing.</p> <p>24       Ex. 18 - Copy of Certificate of Incorporation   52</p> <p>25               regarding Terra Sul Corporation.</p> <p>Ex. 19 - Copy of Registration of               53</p> <p>Alternate Name and</p> <p>Filing Certification</p> <p>U.S. LEGAL SUPPORT, INC.</p> <p>ONE PENN PLAZA, NEW YORK, N.Y. 10119</p>

105		107	
1	EXHIBITS	1	CERTIFICATE
2	PLAINTIFF'S EXHIBITS/DESCRIPTION PAGE	2	STATE OF NEW YORK )
3		3	COUNTY OF NEW YORK )
4	Ex. 20 - Copy of Certificate of Authority 56 Bates stamp TS001288	4	
5		5	I, MADELINE RODRIGUEZ, a Shorthand Reporter
6	Ex. 21 - Copy of a four-page letter 60 dated January 11, 2007 from	6	and Notary Public for the State of New York, do
7	Thompson & Knight, LLP to	7	hereby certify that FARID SALEH, the witness whose
8	Farid Saleh regarding	8	EXAMINATION BEFORE TRIAL was held on August 7th,
9	Trademark Infringement	9	2008, as hereinbefore set forth, was duly sworn by
10		10	me, and that this transcript of such examination
11		11	is a true and accurate record of the testimony given
12		12	by such witness.
13		13	I further certify that I am not related to
14		14	any of the parties to this action by blood or by
15		15	marriage and that I am in no way interested in
16		16	the outcome of this matter.
17		17	IN WITNESS WHEREOF, I have hereunto set my
18		18	hand this 11th day of August, 2008.
19		19	
20		20	MADELINE RODRIGUEZ
21		21	
22		22	
23		23	
24	U.S. LEGAL SUPPORT, INC.	24	
25	ONE PENN PLAZA, NEW YORK, N.Y. 10119	25	
106			
1	U.S. LEGAL SUPPORT, INC.		
2	ONE PENN PLAZA, NEW YORK, N.Y. 10119		
3	(212)759-6014 (212)759-6155 fax		
4	DATE: August 7, 2008		
5	DEPOSITION: Terra Sul Corp vs. Boi Na Brasa, Inc.		
6	DEPONENT: Farid Saleh		
7	PAGE LINE(S) CHANGE REASON		
8			
9			
10			
11			
12			
13			
14			
15			
16	FARID SALEH		
17			
18	SUBSCRIBED AND SWORN TO BEFORE ME		
19	THIS ___ DAY OF _____, 2008.		
20			
21	NOTARY PUBLIC		
22			
23	MY COMMISSION EXPIRES: _____		
24			
25	U.S. LEGAL SUPPORT, INC.		

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C E R T I F I C A T E

STATE OF NEW YORK     )

COUNTY OF NEW YORK    )

I, MADELINE RODRIGUEZ, a Shorthand Reporter  
and Notary Public for the State of New York, do  
hereby certify that FARID SALEH, the witness whose  
EXAMINATION BEFORE TRIAL was held on August 7th, 2008,  
as hereinbefore set forth, was duly sworn by me, and  
that this transcript of such examination is a true and  
accurate record of the testimony given by such witness.

I further certify that I am not related to any of  
the parties to this action by blood or by marriage and  
that I am in no way interested in the outcome of this  
matter.

IN WITNESS WHEREOF, I have hereunto set my hand  
this 11th day of August, 2008.

  
MADELINE RODRIGUEZ

## DEPOSITION OF FARID SALEH - 8/7/2008

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U.S. LEGAL SUPPORT, INC.  
ONE PENN PLAZA, NEW YORK, N.Y. 10119  
(212) 759-6014 (212) 759-6155 fax

DATE: August 7, 2008  
DEPOSITION: Terra Sul Corp vs. Boi Na Brasa, Inc.  
DEPONENT: Farid Saleh.

PAGE	LINE (S)	CHANGE	REASON
62	10	"BRASA" should be "BRAZA"	Transcription error
62	12	"BRASA" should be "BRAZA"	Transcription error
63	12	"BRAZA" should be "BRASA"	Transcription error

~~FARID SALEH~~

SUBSCRIBED AND SWORN TO BEFORE ME  
THIS 4th DAY OF September, 2008.

NOTARY PUBLIC

**ROSA PEREIRA**  
A Notary Public of New Jersey  
My Commission Expires 10/28/08

MY COMMISSION EXPIRES:

U.S. LEGAL SUPPORT, INC.,

U.S. LEGAL SUPPORT - HOUSTON  
713-653-7100

ORIGINAL

Cancellation No. 92047056

*Terra Sul Corporation v. Boi Na Brasa, Inc.*

**EXHIBIT A-1**

Offered by Terra Sul Corporation



New Jersey Department of State  
Division of Commercial Recording  
Certificate of Incorporation, Profit  
(Title 14A:2-7 New Jersey Business Corporation Act  
For Use by Domestic Profit Corporations)

FILED

C-100 Rev. 7/92

MAR 23 1996

This is to Certify that, there is hereby organized a corporation under and by virtue of the above noted statute of the New Jersey Statutes.

1. Name of Corporation: CHURRASCARIA BOI NA BRASA CORP.
2. The purpose for which this corporation is organized is (are) to engage in any activity within the purposes for which corporations may be organized under NJSA 14A 1-1 et seq:
3. Registered Agent: Farid Saleh
4. Registered Office: 79 St. Francis Street, 2nd floor, Newark, New Jersey 07105
5. The aggregate number of shares which the corporation shall have authority to issue is: 100 no par value.
6. If applicable, set forth the designation of each class and series of shares, the number in each, and a statement of the relative rights, preferences and limitations.
7. If applicable, set forth a statement of any authority vested in the board to divide the shares into classes or series or both and to determine or change their designation number, relative rights, preferences and limitations.
8. The first Board of Directors shall consist of 1 Directors (minimum of one).

Name	Street Address	City	State	Zip
Farid Saleh	79 St. Francis Street	Newark	NJ	07105
9. Name and Address of Incorporator(s):

Name	Street Address	City	State	Zip
Irene Quattrochi	83 Polk Street	Newark	NJ	07105
10. The duration of the corporation is: Perpetual
11. Other provisions:

In Witness whereof, each individual incorporator being over eighteen years of age has signed this certificate, or if the Incorporator is a corporation has caused this Certificate to be signed by its duly authorized officers this 25th day of March, 1996.

Signature:

Irene Quattrochi

Signature:

Signature:



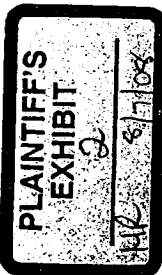
Cancellation No. 92047056

*Terra Sul Corporation v. Boi Na Brasa, Inc.*

**EXHIBIT A-2**

Offered by Terra Sul Corporation





STATE OF NEW JERSEY

**CERTIFICATE OF AUTHORITY**

DIVISION OF TAXATION  
TRENTON, NEW JERSEY  
08846

The person, partnership or corporation named below is hereby authorized to collect:

pursuant to: **NEW JERSEY SALES & USE TAX ACT**  
**N.J.S.A. 54:32B-1 ET SEQ.**

This authorization is good ONLY for the named person at the address specified herein.  
This authorization is not valid if any change of ownership or address is reflected.

**CHURRASARIA, HOI NA BRASA CO**  
**70 ADAMS ST**  
**NEWARK, NJ 07105**

*Richard D. Barkin*  
 Director, Division of Taxation

Tax Registration No.	223-435-705/000
Tax Effective Date	04-15-96
Document Locator No.	R0000616425
Date Issued	06-04-96

(See Reverse Side)

This Certificate is NOT assignable or transferable. It must be conspicuously displayed at above address

CA-1 (10-94)

Cancellation No. 92047056

*Terra Sul Corporation v. Boi Na Brasa, Inc.*

**EXHIBIT A-3**

Offered by Terra Sul Corporation



## OFFER TO PURCHASE REAL ESTATE

Be it known, the undersigned FARID M. SALEH, 79 ST. FRANCIS ST. 2ND FL  
NEWARK, N.J. 07105 (Buyers) offers to purchase from  
LINDOLFO PEREIRA (Seller's) real estate known as  
'CHURRASCOVIA RODEIO FEST' City/Town of TO ADAMS ST. SHYL  
County of NEWARK State of N.J. said property more  
particularly described as: Lot \_\_\_\_\_ Block \_\_\_\_\_ and containing \_\_\_\_\_ square feet of  
land, more or less.

The purchase price offered is	\$ <u>45,000.00</u>
Deposit herewith paid	\$ <u>500.00</u>
Further deposit upon signing sales agreement	\$ <u>4,500.00</u>
Balance at closing	\$ <u>27,000.00</u>
Total Purchase Price	\$ <u>45,000.00</u>

This offer is conditional upon the following terms: \_\_\_\_\_

\* Owner shall pay broker Lucky Realty a commission of 2,500.00  
upon closing and 03-11-96

\* Said property is to be sold free and clear of all encumbrances by good and marketable title, with full  
possession to said property available to Buyer at date of closing.

\* The Parties agree to execute a standard purchase and sales agreement on the terms contained within \_\_\_\_\_ days  
from acceptance of this offer.

\* The closing shall occur on or before 03-11-1996, at the public recording office, unless  
such other time and place shall be agreed upon.

\* Other terms: Seller to pay 13,000.00 mortgage for a period  
of 13 months.

\* This offer shall remain open until \_\_\_\_\_ o'clock, \_\_\_\_\_ 19 \_\_\_\_\_ and not accepted by  
said time offer shall be deemed rescinded and all deposits shall be refunded.

Signed under seal this 02 day of 28 19 96

[Signature]  
BROKER

[Signature] BUYER  
[Signature] BUYER  
[Signature] SELLER  
SELLER

TS 000017



PROMISSORY NOTE

AMOUNT : \$13,000.00  
RATE : None  
TERM : One (1) Year

DATED: March 22, 1996

1) For value received the undersigned promises to pay to the order of LINDOLFO DA SILVA at 71 Niagara Street, Newark, New Jersey, the sum of \$13,000.00 with no interest in installments as follows:

2) The sum of One Thousand Eighty Three and Thirty Three Cents (\$1,083.33) per month commencing April 22, 1996 and a like sum on the 22nd day of each succeeding month until the loan is paid in full. The final payment is March 22, 1997.

3) The undersigned shall have the privilege of prepaying this Note in full or in any part at any time without penalty.

4) This Note represents the unpaid balance of the part of the purchase price of the sale of a certain luncheonette Restaurant sold to the undersigned, located at 70 Adams Street, Store # 4, Newark, New Jersey.

The entire principal balance of this Note shall become immediately due and payable at the election of the holder hereof of five (5) days notice to the undersigned upon the occurrence of any of the following events:

a) Any installment payment on this Note is not paid in full within Twenty (20) days after the due date.

b) A proceeding in Bankruptcy, Receivership, Insolvency is instituted by or against the undersigned or the undersigned makes an assignment for the benefit of creditors.

F. M. J.

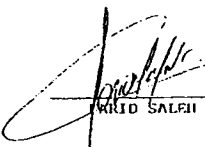
5) In the event of a sale or other transfer of the aforesaid restaurant, the entire principal balance hereunder shall accelerate and immediately become due and payable.

6) WAIVERS. I give up my right to require that the Lender to the following: (a) to demand payment (called "presentment"); (b) to notify me of nonpayment (called "notice of dishonor"); and (c) to obtain an official certified statement showing nonpayment (called a "protest"). The Lender may exercise any right under this Note, the Security Agreement or under any law, even if Lender has delayed in exercising that right or has agreed in an earlier instance not to exercise that right. Lender does not waive its right to declare that I am in default by making payments or incurring expenses on my behalf.

7) The undersigned agrees that in the event that a default occurs and this Note is referred to an attorney for collection, the undersigned shall pay an additional amount equal to twenty (20) percent to the unpaid principal and interest at the rate of eight (8) percent from the date of default, but in no event less than \$750.00 as reasonable attorney's fees, plus costs of suit.

WITNESS:

\_\_\_\_\_  
FAUSTO SIMOES, ESQ.  
AN ATTORNEY AT LAW OF NEW JERSEY

  
\_\_\_\_\_  
MARIO SALATI

Cancellation No. 92047056

*Terra Sul Corporation v. Boi Na Brasa, Inc.*

**EXHIBIT A-5**

Offered by Terra Sul Corporation

CHURRASCARIA BOI NA BRASA CORP.  
STORE 4  
70 ADAMS ST. PH. 201-589-6069  
NEWARK, NJ 07105

0136

55-760/312 83

MAY 6<sup>TH</sup> 1997

PAY TO THE  
ORDER OF

NEWARK ADAMS

\$1,300.00

THIRTEEN HUNDRED E.VEN -

DOLLARS

PNC BANK

PNC Bank, N.A.  
New Jersey 060

FOR

RENT

⑆031207607⑆ 0136 ⑈8109269093⑈

⑆0000130000⑆



TS 000373

ENDORSE HERE:

X  
PENN FEDERAL SAVINGS  
FOR DEPOSIT ONLY  
NEWARK ADAMS ASSOCIATES  
1276001267

DO NOT SIGN / WRITE / STAMP BELOW THIS LINE  
FOR FINANCIAL INSTITUTION USAGE ONLY



5/12/97 5/12/97 5/12/97  
021262719  
PROCESSED  
766 55-766  
17659289  
00589037



Cancellation No. 92047056

*Terra Sul Corporation v. Boi Na Brasa, Inc.*

**EXHIBIT A-6**

Offered by Terra Sul Corporation

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
DECLARATIONS  
COLONIA INSURANCE COMPANY

NEW  
Renewal of Number \*

090-1

ORIGINAL

Policy No. CGL903206A

Named Insured and Mailing Address (No., Street, Town or City, County, State, Zip Code)

CHURRASCARIA BOI NA BRASA  
70 ADAMS STREET  
NEWARK NJ 07105

ASSOCIATED INSURANCE MANAGEMENT CORP.

ONE SEAPORT PLAZA  
199 WATER STREET  
NEW YORK, N.Y. 10038

Policy Period: From 05/09/96 to 05/09/97 at 12:01 A.M. Standard Time at your mailing address shown above.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

LIMITS OF INSURANCE							
General Aggregate Limit (Other Than Products-Completed Operations)	\$ 1,000,000						
Products-Completed Operations Aggregate Limit	\$ 500,000						
Personal and Advertising Injury Limit	\$ 500,000						
Each Occurrence Limit	\$ 500,000						
Fire Damage Limit	\$ 50,000 Any One Fire						
Medical Expense Limit	\$ 5,000 Any One Person						

RETROACTIVE DATE (CG 00 02 only)	
Coverage A of this Insurance does not apply to "bodily injury" or "property damage" which occurs before the Retroactive Date, if any, shown here:	NONE
(Enter Date or "none" if no Retroactive Date applies)	

DESCRIPTION OF BUSINESS AND LOCATION OF PREMISES	
Form of Business:	<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Joint Venture <input type="checkbox"/> Partnership <input type="checkbox"/> Organization (Other than Partnership or Joint Venture)
Business Description*:	RESTAURANT
Location of All Premises You Own, Rent or Occupy:	70 ADAMS STREET NEWARK NJ 07105

PREMIUM							
Classification	Code No.	Premium Basis	Rate		Advance Premium		
			Pr/Co	All Other	Pr/Co	All Other	
01 RESTAURANTS - WITH SALES OF ALCOHOLIC BEVERAGES THAT ARE LESS THAN 75% OF THE TOTAL ANNUAL RECEIPTS OF THE RESTAURANTS - WITHOUT DANCE FLOOR	16816	s)	50000	1.073 17.228	107.	861.	
Total Advance Premium \$					968.		
Premium shown is payable: \$ 968. at inception; \$ 1st Anniversary; \$ 2nd Anniversary							

FORMS AND ENDORSEMENTS

Forms and Endorsements applying to this Coverage Part and made part of this policy at time of issue:

SEE FORM GU207 - COMMERCIAL GENERAL LIABILITY FORMS LIST

Countersigned: CLIFFSIDE PARK NJ

07/23/96 WZ

\*Entry optional if shown in Common Policy Declarations.

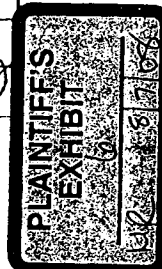
†Forms and Endorsements applicable to this Coverage Part omitted if shown elsewhere in the policy.

By

Authorized Representative

THESE DECLARATIONS TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART DECLARATIONS, COVERAGE PART COVERAGE FORMS AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

JDL 190 (21)-O (Ed. 11-85) Includes copyrighted material of Insurance Services Office, Inc., with its permission. Copyright, Insurance Services Office, Inc., 1982, 1984.



TS 000350

(The Attaching Clause need be completed only when this endorsement is issued subsequent to preparation of the policy.)

GU 207  
(Ed. 6-78)  
PAGE 1

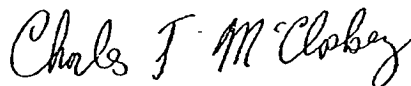
### ENDORSEMENT

This endorsement, effective on 05/09/96 at 12:01 A.M. standard time, forms a part of

Policy No. CGL903206A of the COLONIA INSURANCE COMPANY  
(NAME OF INSURANCE COMPANY)

Issued to CHURRASCARIA BOI NA BRASA

By METCOM EXCESS  
CLIFFSIDE PARK NJ 07/23/96 WZ



Authorized Representative

### COMMERCIAL GENERAL LIABILITY FORMS LIST

CG2144 (11-85) LIMITATION OF COVERAGE TO DESIGNATED PREMISES OR PROJECT  
CG2151 (09-89) AMENDMENT OF LIQUOR LIABILITY EXCLUSION - SCHEDULED ACTV  
CG2407 (11-85) PRODUCTS/COMPLETED OPERATIONS HAZARD REDEFINED  
IL0208 (6/89) N.J. CHANGES-CANCELLATION AND NONRENEWAL  
CG2620 (03/91) NEW JERSEY CHANGES - LOSS INFORMATION  
CG2147 (10/93) EMPLOYMENT-RELATED PRACTICES EXCLUSION  
NJ01 (9-95) AGGREGATE LIMITS  
CG 0001 (01-96) COMMERCIAL GENERAL LIABILITY COVERAGE FORM

TS 000351

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## AMENDMENT OF LIQUOR LIABILITY EXCLUSION - EXCEPTION FOR SCHEDULED ACTIVITIES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### SCHEDULE

Description of Activity(ies):

### LIQUOR LIABILITY

(If no entry appears above, the information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

Exclusion c. of COVERAGE A (Section II) is replaced by the following:

c. "Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you:

- (1) Manufacture, sell or distribute alcoholic beverages
- (2) Serve or furnish alcoholic beverages for a charge whether or not such activity:
  - (a) Requires a license;
  - (b) Is for the purpose of financial gain or livelihood; or
- (3) Serve or furnish alcoholic beverages without a charge, if a license is required for such activity.

However, this exclusion does not apply to "bodily injury" or "property damage" arising out of the selling, serving or furnishing of alcoholic beverages at the specific activity(ies) described above.

POLICY NUMBER: CGL903206A

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## LIMITATION OF COVERAGE TO DESIGNATED PREMISES OR PROJECT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### SCHEDULE

Premises: 70 ADAMS STREET  
NEWARK NJ 07105

Project:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

This insurance applies only to "bodily injury," "property damage," "personal injury," "advertising injury" and medical expenses arising out of:

1. The ownership, maintenance or use of the premises shown in the Schedule and operations necessary or incidental to those premises; or
2. The project shown in the Schedule.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## PRODUCTS/COMPLETED OPERATIONS HAZARD REDEFINED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### SCHEDULE

Description of Premises and Operations:

RESTAURANT

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

With respect to "bodily injury" or "property damage" arising out of "your products" manufactured, sold, handled or distributed:

1. On, from or in connection with the use of any premises described in the Schedule, or
2. In connection with the conduct of any operation described in the Schedule, when conducted by you or on your behalf,

Paragraph a. of the definition of "Products - completed operations hazard" in the DEFINITIONS Section is replaced by the following:

- a. "Products - completed operations hazard" includes all "bodily injury" and "property damage" that arises out of "your products" if the "bodily injury" or "property damage" occurs after you have relinquished possession of those products.

POLICY NUMBER: CGL903206A

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## NEW JERSEY CHANGES - CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

BOILER AND MACHINERY COVERAGE PART  
BUSINESSOWNERS POLICY  
COMMERCIAL AUTOMOBILE COVERAGE PART  
COMMERCIAL CRIME COVERAGE PART \*  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL INLAND MARINE COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
FARM COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

\* This endorsement does not apply to coverage provided for employee dishonesty (Coverage Form A), forgery or alteration (Coverage Form B), or public employee dishonesty (Coverage Forms O and P).

A. Pursuant to New Jersey law, this policy cannot be cancelled or nonrenewed for any underwriting reason or guideline which is arbitrary, capricious or unfairly discriminatory or without adequate prior notice to the insured. The underwriting reasons or guidelines that an insurer can use to cancel or nonrenew this policy are maintained by the insurer in writing and will be furnished to the insured and/or the insured's lawful representative upon written request.

This provision shall not apply to any policy which has been in effect for less than 60 days at the time notice of cancellation is mailed or delivered, unless the policy is a renewal policy.

B. Paragraph 2. of the CANCELLATION Common Policy Condition is replaced by the following:

2. If this policy has been in effect for less than 60 days, we may cancel this policy by mailing or delivering to the first Named Insured and any person entitled to notice under this policy written notice of cancellation at least:

a. 10 days before the effective date of cancellation if we cancel for:

- (1) Nonpayment of premium; or
- (2) Existence of a moral hazard, as defined in N.J.A.C. 11:1-20.2(f) as follows:

(a) "The risk, danger or probability that the insured will destroy, or permit to be destroyed, the insured property for the purpose of collecting the insurance proceeds. Any change in the circumstances of an insured that will increase the probability of such a destruction may be considered a 'moral hazard;' and

(b) The substantial risk, danger or probability that the character, circumstances or personal habits of the insured may increase the possibility of loss or liability for which an insurer will be held responsible. Any change in the character or circumstances of an individual, corporate, partnership or other insured that will increase the probability of such a loss or liability may be considered a 'moral hazard.'"

b. 30 days before the effective date of cancellation if we cancel for any other reason.

C. The following is added to the CANCELLATION Common Policy Condition:

7. Cancellation of Policies In Effect For 60 Days or More

- a. If this policy has been in effect for 60 days or more, or is a renewal of a policy we issued, we may cancel this policy only for one or more of the following reasons:

- (1) Nonpayment of premium;
- (2) Existence of a moral hazard, as defined in N.J.A.C. 11:1-20.2(f);
- (3) Material misrepresentation or nondisclosure to us of a material fact at the time of acceptance of the risk;
- (4) Increased hazard or material change in the risk assumed which we could not have reasonably contemplated at the time of assumption of the risk;
- (5) Substantial breaches of contractual duties, conditions or warranties that materially affect the nature and/or insurability of the risk;
- (6) Lack of cooperation from the insured on loss control matters materially affecting insurability of the risk;
- (7) Fraudulent acts against us by the insured or its representative that materially affect the nature of the risk insured;
- (8) Loss of or reduction in available insurance capacity;
- (9) Material increase in exposure arising out of changes in statutory or case law subsequent to the issuance of the insurance contract or any subsequent renewal;
- (10) Loss of or substantial changes in applicable reinsurance;
- (11) Failure by the insured to comply with any Federal, State or local fire, health, safety or building or construction regulation, law or ordinance with respect to an insured risk which substantially increases any hazard insured against within 60 days of written notification of a violation of any such law, regulation or ordinance;
- (12) Failure by the insured to provide reasonable and necessary underwriting information to us upon written request therefor and a reasonable opportunity to respond;

- (13) Agency termination, provided:

- (a) We document that replacement coverage at comparable rates and terms has been provided to the first Named Insured, and we have informed the first Named Insured, in writing, of the right to continue coverage with us; or
- (b) We have informed the first Named Insured, in writing, of the right to continue coverage with us and the first Named Insured has agreed, in writing, to the cancellation or nonrenewal based on the termination of the first Named Insured's appointed agent.

- (14) Any other reasons in accordance with our underwriting guidelines for cancellation of commercial lines coverage.

- b. If we cancel this policy based on paragraph 7.a.(1) or (2) above, we will mail a written notice, stating the reason for cancellation, to the first Named Insured and any person entitled to notice under this policy, at least 10 days before the effective date of cancellation. For cancellation due to the nonpayment of premium, the notice will state the effect of nonpayment by the due date. Cancellation for nonpayment of premium will not be effective if payment of the amount due is made before the effective date set forth in the notice. If we cancel this policy for any other reason listed above, we will mail a written notice, stating the reason for cancellation, to the first Named Insured and any person entitled to notice under this policy, not more than 120 days nor less than 30 days before the effective date of such cancellation.

- c. Notice will be sent to the last mailing addresses known to us, by:

- (1) Certified mail; or
- (2) First class mail, if we have obtained from the post office a date stamped proof of mailing showing names and addresses.

- d. We need not send notice of cancellation if you have:

- (1) Replaced coverage elsewhere; or
- (2) Specifically requested termination.



D. The following is added and supersedes any other provision to the contrary:

**NONRENEWAL**

1. We may elect not to renew this policy for any reason permitted to cancel it. If we elect not to renew this policy, we will mail a notice of nonrenewal, stating the reasons for nonrenewal, to the first Named Insured at least 30 days but not more than 120 days before the expiration date of this policy. If this policy does not have a fixed expiration date, it shall be deemed to expire annually on the anniversary of its inception.

2. This notice will be sent to the first Named Insured at the last mailing address known to us by:

- a. Certified mail; or
- b. First class mail, if we have obtained from the post office a date stamped proof of mailing showing the first Named Insured's name and address.

3. We need not mail or deliver this notice if you have:

- a. Replaced coverage elsewhere; or
- b. Specifically requested termination.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## NEW JERSEY CHANGES - LOSS INFORMATION

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART ("OCCURRENCE" VERSION)

The following Condition is added TO COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

#### 10. Your Right to Loss Information

We will provide the first Named Insured shown in the Declarations the following loss information relating to this and any preceding general liability Coverage Part we have issued to you during the previous three years:

- a. A list or other record of each "occurrence" of which we were notified in accordance with paragraph 2.a. of the Duties in the Event of Occurrence, Offense, Claim or Suit Condition in this Section. We will include a brief description of the "occurrence" and information on whether any claim arising out of the "occurrence" is open or closed.
- b. A summary by policy year, of payments made and amounts reserved, stated separately under any applicable General Aggregate Limit and

#### Products/Completed Operations Aggregate Limit.

Amounts reserved are based on our judgment. They are subject to change and should not be regarded as ultimate settlement values.

You must not disclose this information to any claimant or any claimant's representative without our consent.

We will provide this information only if we receive a written request from the first Named Insured during the policy period. We will provide this information within 45 days of receipt of the request.

We compile claim and "occurrence" information for our own business purposes and exercise reasonable care in doing so. In providing this information to the first Named Insured, we make no representations or warranties to insureds, insurers or others to whom this information is furnished by or on behalf of any insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to paragraph 2., Exclusions of COVERAGE A-BODILY INJURY AND PROPERTY DAMAGE LIABILITY (Section I-Coverages):

This insurance does not apply to:

"Bodily injury" to:

(1) A person arising out of any:

- (a) Refusal to employ that person;
- (b) Termination of that person's employment; or
- (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in paragraphs (a), (b) or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

B. The following exclusion is added to paragraph 2., Exclusions of COVERAGE B-PERSONAL AND ADVERTISING INJURY LIABILITY (Section I-Coverages):

This insurance does not apply to:

"Personal injury" to:

(1) A person arising out of any:

- (a) Refusal to employ that person;
- (b) Termination of that person's employment; or
- (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "personal injury" to that person at whom any of the employment-related practices described in paragraphs (a), (b) or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

Policy No.:CGL903206A

ENDORSEMENTS

THIS POLICY CONTAINS AGGREGATE LIMITS: REFER  
TO SECTION III - LIMITS OF INSURANCE FOR DETAILS.

NJ01

TS 000360

Policy No.: CGL903206A

\*\*\*\*\*  
\*  
\* **MANUAL FORM** \*  
\*  
\*\*\*\*\*

THE FOLLOWING FORMS HAVE BEEN SELECTED TO APPLY TO THIS POLICY.  
SINCE YOU HAVE INDICATED THAT IT IS NOT TO BE PRINTED BY THE LONDON  
LINKS SYSTEM, IT MUST BE MANUALLY ATTACHED TO THE POLICY.  
CG 0001

Cancellation No. 92047056

*Terra Sul Corporation v. Boi Na Brasa, Inc.*

**EXHIBIT A-7**

Offered by Terra Sul Corporation

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
DECLARATIONS  
COLONIA INSURANCE COMPANY

090 1

RE-WRITE  
Renewal of Number

ORIGINAL

Policy No. CGL906861

Named Insured and Mailing Address (No., Street, Town or City, County, State, Zip Code)

CHURRASCARIA BOI NA BRASA  
T/A & PAULO ALEMAO  
70 ADAMS STREET STORE #4  
NEWARK NJ 07105

ASSOCIATED INSURANCE MANAGEMENT CORP.

ONE SEAPORT PLAZA  
199 WATER STREET  
NEW YORK, N.Y. 10038

Policy Period: From 10/06/97 to 10/06/98 at 12:01 A.M. Standard Time at your mailing address shown above.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

LIMITS OF INSURANCE

General Aggregate Limit (Other Than Products-Completed Operations)	\$ 1,000,000.
Products-Completed Operations Aggregate Limit	\$ 500,000.
Personal and Advertising Injury Limit	\$ 500,000.
Each Occurrence Limit	\$ 500,000.
Fire Damage Limit	\$ 100,000. Any One Fire
Medical Expense Limit	\$ 5,000. Any One Person

RETROACTIVE DATE (CG 00 02 only)

Coverage A of this Insurance does not apply to "bodily injury" or "property damage" which occurs before the Retroactive Date, if any, shown here. NONE

(Enter Date or "none" if no Retroactive Date applies)

DESCRIPTION OF BUSINESS AND LOCATION OF PREMISES

Form of Business:

☒ Individual ☐ Joint Venture ☐ Partnership ☐ Organization (Other than Partnership or Joint Venture)

Business Description\*: RESTAURANT

Location of All Premises You Own, Rent or Occupy:

70 ADAMS STREET, STORE #4  
NEWARK, NJ 07105

PREMIUM

Classification	Code No.	Premium Basis	Rate		Advance Premium	
			Pr/Co	All Other	Pr/Co	All Other
01 RESTAURANTS - WITH SALES OF ALCOHOLIC BEVERAGES THAT ARE LESS THAN 75% OF THE TOTAL ANNUAL RECEIPTS OF THE RESTAURANTS - WITHOUT DANCE FLOOR	16816	s) 130000	0.790	19.455	103.	2,529.

Total Advance Premium \$ 2,632.

Premium shown is payable: \$ 2,632. at inception; \$ 1st Anniversary; \$ 2nd Anniversary

FORMS AND ENDORSEMENTS NJ S/C \$8.69

Forms and Endorsements applying to this Coverage Part and made part of this policy at time of issue:

SEE FORM GU207 - COMMERCIAL GENERAL LIABILITY FORMS LIST

Countersigned\*: CLIFFSIDE PARK NJ

11/24/97 IK

\*Entry optional if shown in Common Policy Declarations.

Forms and Endorsements applicable to this Coverage Part omitted if shown elsewhere in the policy.

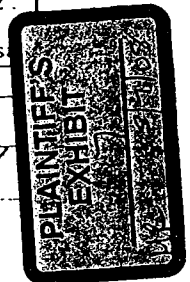
By

Charles J. McLokey

Authorized Representative

THESE DECLARATIONS AND THE COMMON POLICY DECLARATIONS, IF APPLICABLE, TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE FORMS AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

TS 000393



Cancellation No. 92047056

*Terra Sul Corporation v. Boi Na Brasa, Inc.*

**EXHIBIT A-8**

Offered by Terra Sul Corporation



Steve O. Unzueta  
Prudential Representative  
Service Since 1991



**Prudential**

Prudential Insurance and Financial Services  
221 Bergen Street, Newark NJ 07103  
24 Hr Direct 201 517-1900 Tel 973 242-4800  
Fax 973 242-4060  
A Division of The Prudential Insurance Company of America



TS 000317

COMMERCIAL LINES POLICY  
COMMON POLICY DECLARATIONS

SL 00365-98-01167

AMERICAN EQUITY INSURANCE COMPANY

Scottsdale, Arizona

NEW

Renewal of Number

Policy No. ACC 057900

Named Insured and Mailing Address

(No., Street, Town or City, County, State, Zip Code)

CHURRASCARIA BOINA BRASA

70 ADAMS STREET STORE #4

NEWARK

NJ 07105

THIS INSURANCE IS ISSUED PURSUANT  
TO THE NJ SURPLUS LINES LAW

Agent and Mailing Address

(No., Street, Town or City, County, State, Zip Code)

Melcom Excess  
596 Anderson Ave.,  
Suite 301

Agency No. 3100

Tax State NJ

Cliffside Park

NJ 07010

Policy Period: From 05/22/1998 to 05/22/1999 at 12:01 A.M. Standard Time  
at your mailing address shown above.

Business Description: RESTAURANT

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE  
WITH YOU TO PROVIDE THE INSURANCE STATED IN THIS POLICY.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED.  
THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT

	PREMIUM
Commercial Property Coverage Part	\$
Commercial General Liability Coverage Part	\$ 2,018.00
	\$
	\$
TOTAL ADVANCE PREMIUM	\$ 2,018.00
Other Charges 3% NJ S/L TAX:	\$ 60.54
TOTAL	\$ 2,078.54

Form(s) and Endorsement(s) made a part of this policy at time of issue\*:

A100J (09/1994), A104 (09/1994), CL150 (11/1985)

A100(9/94), IL0208(10/97)

\*Omits applicable Forms and Endorsements if shown in specific Coverage Part/Coverage Form Declarations

Countersigned: METCOM EXCESS  
06/19/1998 NM

By

Authorized Representative

THESE DECLARATIONS TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART DECLARATIONS, COVERAGE PART COVERAGE  
FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY  
Includes copyrighted material of Insurance Services Office, Inc. with its permission. Copyright, Insurance Services Office, Inc., 1983, 1984

A100 (09/1994)

ORIGINAL

TS 000318

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## ENDORSEMENT

### SERVICE OF SUIT

Pursuant to any statute of any state, territory or district of the United States which makes provision therefore, we hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the Statute, or his successor or successors in office, as our true and lawful attorney upon whom may be served any lawful process in any action, "suit" or proceeding instituted by or on behalf of you or any beneficiary hereunder arising out of this contract of insurance, and hereby designate the above named as the person to whom the said officer is authorized to mail process or a true copy thereof.

It is further agreed that service of process in such "suit" may be made upon Ken Brundage, or his nominee, of the Company at 8370 E. Via de Ventura, Building K, Scottsdale, Arizona 85258 and that in any "suit" instituted against any one of them upon this policy, we will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

It is agreed that in any state requiring a standard form of policy, insurance hereunder on values or properties in such state shall attach and cover in accordance with the terms and conditions of such standard form.

TS 000320

ENDORSEMENT

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**NOTICE TO POLICYHOLDERS**

This insurance does not provide coverage as required by Environmental Protection Agency (EPA) 40 CFR Parts 280 and 281 for underground storage tanks nor any coverage under CERCLA or similar State or Federal Environmental Act(s).

This policy excludes all Coverage for Pollution.

All other Terms and Conditions of this Policy remain unchanged.

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COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION — PUNITIVE OR EXEMPLARY DAMAGES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to COVERAGES A and B (Section I):

This insurance does not apply to a claim of or indemnification for punitive or exemplary damages. If a suit shall have been brought against you for a claim within the coverage provided under the policy, seeking both compensatory and punitive or exemplary damages, then we will afford a defense for such action. We shall not have an obligation to pay for any costs, interest or damages attributable to punitive or exemplary damages.

All other Terms and Conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

**EXCLUSION — VOLUNTARY LABOR**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

The following exclusion is added to COVERAGES A, B and C (Section I):

This insurance does not apply to "bodily injury", "personal injury" or medical payments to any member, associate, affiliated member, or to any person or persons loaned to or volunteering services to you, whether or not paid by you, arising out of or in the course of work performed for you or on your behalf.

All other Terms and Conditions of this Policy remain unchanged.

ENDORSEMENT

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**LIMITATION - OTHER INSURANCE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

CONDITION 4., Other Insurance, under COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV), item b(3) providing Excess Insurance if the loss arises out of the maintenance or use of aircraft, "autos" or watercraft is deleted.

All other Terms and Conditions of this Policy remain unchanged



COMMERCIAL GENERAL LIABILITY

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION - ASSAULT AND BATTERY - HIRING / SUPERVISION (NJ ONLY)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to Paragraph w., Exclusions of COVERAGE A, Bodily Injury and Property Damage Liability (Section I - Coverage):

The insurance does not apply to "bodily injury" or "property damage" arising out of any alleged assault and battery or out of any act or omission in connection with the prevention or suppression of such acts, including the alleged failure to provide adequate security whether caused by or at the instigation or direction of the insured, his employees, patrons or any other person.

This insurance does not apply to claims, accusations, or charges of negligent hiring, placement, training or supervision arising from actual or alleged assault or battery.

The following exclusion is added to Paragraph 2., Exclusions of COVERAGE B, Personal and Advertising Injury Liability (Section I - Coverages):

This insurance does not apply to "personal injury" arising out of any alleged assault and battery or out of any act or omission in connection with the prevention or suppression of such acts, including the alleged failure to provide adequate security whether caused by or at the instigation or direction of the insured, his employees, patrons or any other person.

All other Terms and Conditions of this Policy remain unchanged.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION - TOTAL LIQUOR LIABILITY (NJ ONLY)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Exclusion c. under paragraph 2., Exclusions of COVERAGE A, Bodily Injury and Property Damage (Section I - Coverages) is replaced by the following:

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured or his indemnitee may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

All other Terms and Conditions of this Policy remain unchanged.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**CONTRACTUAL LIABILITY LIMITATION (NJ Only)**

(Limited Form)

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

The definitions of "insured contract" in DEFINITIONS (Section V) is replaced by the following:

"Insured Contract" means any written:

- a. Contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. Sidetrack agreement;
- c. Easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. Obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. Elevator maintenance agreement, or
- f. That part of any other contract or agreement pertaining to your business (including indemnification of a municipality in connection with work performed for a municipality) under which you assume tort liability of another party to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

An "insured contract" does not include that part of any contract or agreement:

- (1) That indemnifies any person or organization for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, track, road bed, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- (3) Under which the Insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection or engineering services;
- (4) That indemnifies any person or organization for "property damage" to premises rented or loaned to you;
- (5) That indemnifies any person or organization for "bodily injury" or "property damage" arising from an "occurrence" caused by the negligence of said person or organization; or
- (6) That indemnifies any person or organization for "bodily injury" or "property damage" arising from the ownership, maintenance or use of any aircraft.

All other Terms and Conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDMENT OF PREMIUM CONDITIONS (NJ Only)**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

CONDITION 5. Premium Audit, under COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV), is replaced by the following.

**5. Premium Audit**

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

The deposit premium shown on the declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

The rates for each classification shown on the Declarations are multiplied by the estimated premium bases of that classification for the term to determine the deposit premium. We may, at our discretion, conduct an audit of the insured's books to determine the actual premium bases developed during the policy period. The premium bases used are payroll, admissions, gross sales, total costs, area, each exposure unit or units and are defined in accordance with company rules and the following additional definitions:

- (1) Payroll (premium basis symbol p): Remuneration paid to employees, including but not limited to:
- (a) Money or substitutes for money; commissions; bonuses; overtime; payments to statutory insurance or pension plans; profit sharing or incentive plans; pay for holidays, vacation or sickness; and fees paid to employment agencies for temporary personnel provided to the insured.
  - (b) If your operations consist of a number of separate operations classified individually on the Declarations page, the payroll will be allocated to each classification where you have maintained records for each separate operation. Any such operation for which separate records are not maintained by you shall be assigned to the highest rated classification.
  - (c) For premium computation purposes, the payroll of executive officers, individual insureds and co-partners is subject to a minimum annual payroll per person of:

\$

(If no entry is made, the minimum payroll as established by the company's rating rules will apply).

The rates apply per \$1,000 of Payroll.

- (2) Admissions (premium basis symbol m): The total number of persons, other than employees of the named insured, admitted to the event insured or to events conducted on the premises whether on paid admissions, tickets, complimentary tickets or passes.

The rates apply per 1,000 Admissions.

(3) Gross sales (premium basis symbol s): The gross amount charged by the named insured, concessionaires of the named insured or by others trading under the insured's name for:

- (a) All goods or products, sold or distributed;
- (b) Operations performed during the policy period; and
- (c) Rentals; or
- (d) Dues or fees.

The rates apply per \$1,000 of Gross Sales.

(4) Total Cost (premium basis symbol c): The total cost of all work let or sublet in connection with each specific project including:

- (a) The cost of all labor, materials and equipment furnished, used or delivered for use in the execution of the work; or
- (b) All fees, bonuses or commissions made, paid or due.

The rates apply per \$1,000 of Total Cost.

(5) Area (premium basis symbol a): The total number of square feet of floor space at the insured premises.

The rates apply per 1,000 square feet of area.

(6) Each (premium basis symbol t): This basis of premium involves units of exposure, and the quantity comprising each unit of exposure is indicated in the declarations page, such as "per person".

The rates apply per each unit of exposure.

(7) Units (premium basis symbol u): A single room or group of rooms intended for occupancy as separate living quarters by a family, by a group of unrelated persons living together, or by a person living alone.

The rates apply per unit.

- b. Premium shown in this Coverage Part is the deposit premium. At the close of each audit period (or part thereof terminating with the end of the policy period) we will compute the earned premium for that period. If the earned premium is greater than the deposit premium paid, an audit premium is due. Audit premiums are due and payable on notice to the first Named Insured. If the total earned premium for the policy period is less than the deposit premium, the difference is refunded subject to the minimum premium.
- c. The first Named Insured must keep records of information we need for premium computation, and shall supply copies at such times as we may request.
- d. We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

All other Terms and Conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**DEDUCTIBLE LIABILITY INSURANCE (NJ Only)**

This endorsement modifies insurance provided under the following

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**SCHEDULE**

Coverage	Amount of Deductible	
Bodily Injury Liability	\$ 500.00	per claim
Property Damage Liability	\$ 500.00	per claim

**APPLICATION OF ENDORSEMENT** (Enter below any limitations on the application of this endorsement. If no limitation is entered, the deductibles apply to damages for all "bodily injury" and "property damage", however caused):

1. Our obligation under the Bodily Injury Liability and Property Damage Liability Coverages to pay damages on your behalf applies only to the amount of damages in excess of any deductible amounts stated in the schedule as applicable to such coverages, and the limits of insurance applicable to each "occurrence" for such coverages will be reduced by the amount of such deductible. "Aggregate" limits for such coverages shall not be reduced by the application of such deductible.
2. The deductible amounts stated are on a PER CLAIM BASIS and the deductible amount applies:
  - a. Under the Bodily Injury Liability, to all damages because of "bodily injury" sustained by one person; or
  - b. Under the Property Damage Liability, to all damages because of "property damage" sustained by one person or organization;  
as a result of any one "occurrence".
3. The terms of this insurance, including those with respect to:
  - a. Our right and duty to defend "suits" seeking those damages; and
  - b. Your duties in the event of an "occurrence", claim or "suit",  
apply irrespective of the application of the deductible amount.
4. We may at our sole election and option, either:
  - a. Pay any part or all of the deductible among to effect settlement of any claim or "suit" and upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us; or
  - b. Upon our receipt of notice of any claim or at any time thereafter, request you to pay over and deposit with us all or any part of the deductible amount, to be held and applied per the terms of this policy.

All other Terms and Conditions of this Policy remain unchanged.

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**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we," "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under WHO IS AN INSURED (Section II). Other words and phrases that appear in quotation marks have special meaning. Refer to DEFINITIONS (Section V).

**SECTION I - COVERAGES****COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY****1. Insuring Agreement.**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend any "suit" seeking those damages. We may at our discretion investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in LIMITS OF INSURANCE (Section III); and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS - COVERAGES A AND B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory"; and
- (2) The "bodily injury" or "property damage" occurs during the policy period.

- c. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury."

**2. Exclusions**

This insurance does not apply to:

- a. **Expected or Intended Injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

**b. Contractual Liability**

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) Assumed in a contract or agreement that is an "insured contract," provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or
- (2) That the insured would have in the absence of the contract or agreement.

**c. Liquor Liability**

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

**d. Workers' Compensation and Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

**e. Employer's Liability**

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and

- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract."

**f. Pollution**

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants.
- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured;
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any insured or any person or organization for whom you may be legally responsible; or
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations:
- (i) If the pollutants are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor; or
- (ii) If the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.

Subparagraphs (a) and (d)(i) do not apply to "bodily injury" or "property damage" arising out of heat, smoke or fumes from a hostile fire.

As used in this exclusion, a hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be.

- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treat-

ing, detoxifying or neutralizing, or in any way responding to, or assessing the effects of pollutants.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

**g. Aircraft, Auto or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading."

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
- (a) Less than 26 feet long; and
- (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in paragraph f.(2) or f.(3) of the definition of "mobile equipment."

**h. Mobile Equipment**

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition or stunting activity.

**i. War**

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

**j. Damage to Property**

"Property damage" to:

- (1) Property you own, rent or occupy;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;



- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

- k. **Damage to Your Product**  
"Property damage" to "your product" arising out of it or any part of it.
- l. **Damage to Your Work**  
"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard."  
This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.
- m. **Damage to Impaired Property or Property Not Physically Injured**  
"Property damage" to "impaired property" or property that has not been physically injured, arising out of:
  - (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
  - (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.
 This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.
- n. **Recall of Products, Work or Impaired Property**  
Damage claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:
  - (1) "Your product";
  - (2) "Your work"; or
  - (3) "Impaired property";
 if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in LIMITS OF INSURANCE. (Section III).

## COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY

### 1. Insuring Agreement.

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal injury" or "advertising injury" to which this insurance applies. We will have the right and duty to defend any "suit" seeking those damages.

We may at our discretion investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in LIMITS OF INSURANCE (SECTION III); and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverage A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENT - COVERAGES AND B.

- b. This insurance applies to:

- (1) "Personal injury" caused by an offense arising out of your business, excluding advertising, publishing, broadcasting or telecasting done by or for you;
- (2) "Advertising injury" caused by an offense committed in the course of advertising your goods, products or services; but only if the offense was committed in the "coverage territory" during the policy period.

### 2. Exclusions

This insurance does not apply to:

- a. "Personal injury" or "advertising injury":
  - (1) Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity;
  - (2) Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;
  - (3) Arising out of the willful violation of a penal statute or ordinance committed by or with the consent of the insured; or
  - (4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.
- b. "Advertising injury" arising out of:

Breach of contract, other than misappropriation of advertising ideas under an implied contract;

The failure of goods, products or services to conform with advertised quality or performance;

The wrong description of the price of goods, products or services; or

An offense committed by an insured whose business is advertising, broadcasting, publishing or telecasting.

#### COVERAGE C. MEDICAL PAYMENTS

##### 1. Insuring Agreement.

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
  - (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or
  - (3) Because of your operations; provided that:
    - (1) The accident takes place in the "coverage territory" and during the policy period;
    - (2) The expenses are incurred and reported to us within one year of the date of the accident, and
    - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
  - (1) First aid administered at the time of an accident;
  - (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
  - (3) Necessary ambulance, hospital, professional nursing and funeral services.

##### 2. Exclusions.

We will not pay expenses for "bodily injury":

- a. To any insured.
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- d. To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. To a person injured while taking part in athletics.
- f. Included within the "products-completed operations hazard."
- g. Excluded under Coverage A.
- h. Due to war, whether or not declared, or any act or condition incident to war. War includes a civil war, insurrection, rebellion or revolution.

#### SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

We will pay, with respect to any claim or "suit" we defend:

1. All expenses we incur.
2. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
3. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
4. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit," including actual loss of earnings up to \$100 a day because of time off from work.
5. All costs taxed against the insured in the "suit."
6. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
7. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

#### SECTION II - WHO IS AN INSURED

##### 1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners and their spouses are also insureds, but only with respect to the conduct of your business.
- c. An organization other than a partnership or joint venture, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

##### 2. Each of the following is also an insured:

- a. Your "employees," other than your "executive officers," but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, no "employee" is an insured for:

(1) "Bodily injury" or "personal injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), or to a co-"employee" while in the course of his or her employment or while performing duties related to the conduct of your business;

- (b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of paragraph (1)(a) above;
  - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraphs (1)(a) or (b) above; or
  - (d) Arising out of his or her providing or failing to provide professional health care services.
- (2) "Property damage" to property:
- (a) Owned, occupied or used by,
  - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees" or, if you are a partnership or joint venture, by any partner or member.
- b. Any person (other than your "employee"), or any organization while acting as your real estate manager.
  - c. Any person or organization having proper temporary custody of your property if you die, but only:
    - (1) With respect to liability arising out of the maintenance or use of that property; and
    - (2) Until your legal representative has been appointed.
  - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:
- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
  - b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.
4. Any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier.
- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage B does not apply to "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.

### SECTION III - LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits."
2. The General Aggregate Limit is the most we will pay for the sum of:
  - a. Medical expenses under Coverage C;
  - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
  - c. Damages under Coverage B.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard."
4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal injury" and all "advertising injury" sustained by any one person or organization.
5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
  - a. Damages under Coverage A; and
  - b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence."
6. Subject to 5. above, the Fire Damage Limit is the most we will pay under Coverage A for damages because of "property damage" to premises, while rented to you or temporarily occupied by you with permission of the owner, arising out of any one fire.
7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

#### SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

1. **Bankruptcy.**  
Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.
2. **Duties In The Event Of Occurrence, Offense, Claim Or Suit.**
  - a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
    - (1) How, when and where the "occurrence" or offense took place;
    - (2) The names and addresses of any injured persons and witnesses; and
    - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
  - b. If a claim is made or "suit" is brought against any insured, you must:
    - (1) Immediately record the specifics of the claim or "suit" and the date received; and
    - (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
  - c. You and any other involved insured must:
    - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
    - (2) Authorize us to obtain records and other information;
    - (3) Cooperate with us in the investigation, settlement or defense of the claim or "suit"; and
    - (4) Assist us, upon our request in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
  - d. No insureds will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.
3. **Legal Action Against Us.**  
No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

#### 4. **Other Insurance.**

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

##### a. **Primary Insurance**

This insurance is primary except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. below.

##### b. **Excess Insurance**

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

- (1) That is Fire, Extended Coverage, Builder's Risk Installation Risk or similar coverage for "your work";
- (2) That is Fire insurance for premises rented to you; or
- (3) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Coverage A (Section I).

When this insurance is excess, we will have no duty under Coverage A or B to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.